

PLANNING AND DEVELOPMENT CONTROL COMMITTEE
12 DECEMBER 2012

Minutes of the meeting of the Planning and Development Control Committee of the Flintshire County Council held at County Hall, Mold on Wednesday, 12 December 2012

PRESENT: Councillor D.E. Wisinger (Chairman)

Councillors: R.C. Bithell, D. Butler, D. Cox, I. Dunbar, C.A. Ellis, D. Evans, J. Falshaw, A.M. Halford, R.G. Hampson, P.G. Heesom, R. Hughes, C.M. Jones, R.B. Jones, M.J. Peers, N. Phillips, H.G. Roberts and W.O. Thomas

SUBSTITUTIONS:

Councillor: D.I. Mackie for V. Gay, D. Hutchinson for R. Lloyd and M. Lowe for W. Mullin

ALSO PRESENT:

The following Councillors attended as local Members:-

Councillors R.P. Macfarlane and P. Shotton - agenda item 6.1. Councillor P. Lightfoot - agenda item 6.3. Councillor N.M. Matthews - agenda item 6.8. Councillor R. Johnson - agenda item 7

IN ATTENDANCE:

Head of Planning, Development Manager, Planning Strategy Manager, Senior Engineer - Highways Development Control, Team Leader Major Developments, Senior Planners, Planning Support Officer, Democracy & Governance Manager, Principal Solicitor (for agenda item 7 only) and Committee Officer

108. DECLARATIONS OF INTEREST

Councillor A.I. Dunbar declared a personal and prejudicial interest in the following application:-

Agenda item 6.1 – Full application – Erection of 20 no. semi-detached dwellings, part reconfiguration of existing (unadopted) road and extending to form new road layout on land off Fair Oaks Drive, Connah’s Quay (048610)

Councillors A.M. Halford and D.I. Mackie declared a personal and prejudicial interest in the following application:-

Agenda item 6.2 – Full application – Car park provision, access road and structures for use in conjunction with proposed allotments facilities at land at Upper Aston Hall Lane, Hawarden (049765)

Councillor J. Falshaw declared a personal interest in the following application:-

**Agenda item 6.4 - Application for Outline Planning Permission –
Erection of a detached bungalow at Belmont, South Street,
Caerwys (050169)**

109. LATE OBSERVATIONS

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

110. MINUTES

The draft minutes of the meeting of the Committee held on 7 November, 2012 had been circulated to Members with the agenda.

RESOLVED:

That the minutes be approved as a correct record and signed by the Chairman.

111. ITEMS TO BE DEFERRED

The Head of Planning advised that deferment of the following application was recommended:

**Agenda item 6.4 – Application for outline planning permission -
Erection of a detached bungalow at Belmont, South Street,
Caerwys (050169)** – a request from the applicant to defer the application had been received to allow for further work on the application to be undertaken

On being put to the vote, deferment of the application was agreed.

Agenda Item 7

Councillor P.G. Heesom requested that agenda item 7 be deferred as he felt that short notice of the agenda item had been given to Members. He also requested that a special meeting be held within the next 10 days to consider the item as the date for the appeal Inquiry was 30 January 2013. In response, the Democracy & Governance Manager said that the normal notice had been given to Members and the local Member had been notified in advance that the report was being submitted. He felt that to defer the application would be a disadvantage to the Council but that if the Committee wanted any further information, he suggested that consideration be given to excluding the Press and Public from the meeting.

Councillor R.C. Bithell felt that the application should be dealt with at this meeting. Councillor A.M. Halford said that as the former Chair of Planning, the issues had given her cause for concern and that Councillor Heesom's request to defer was about protecting the residents of Prince of Wales Avenue. Councillor C.A. Ellis asked why determination of the

application could not be deferred for a month as the Inquiry was not due to be held until 30 January 2013 and the next Planning Committee meeting was scheduled to be held before that date. She said that this would allow a meeting to be held between Councillor Heesom and officers within the next 10 days and for the findings to be reported to the January 2013 Planning & Development Control Committee meeting.

The Democracy & Governance Manager referred to a circular about costs being awarded to either party if the Inspector felt that either party had acted unreasonably. He spoke of costs which had been awarded against Flintshire County Council in the past and reminded Members that costs increased as the appeal drew closer. The report detailed a course of action and the Democracy & Governance Manager said that the longer the delay in deciding on the approach to take, the higher the award of costs against Flintshire County Council could be. His advice was to consider the report today.

Councillor H.G. Roberts said that there was currently no reason to support deferment but that if reasons became apparent during discussion of the item that deferment was required, then this could be considered at that time. Councillor M.J. Peers concurred with these comments. Councillor D. Butler queried why the request to defer the discussion was taking place now as he felt that it could have been requested prior to the meeting and agreed that the report should be considered at this meeting.

In response to the suggestion by Councillor Ellis to defer the discussion to the January 2013 meeting, the Head of Planning said that the evidence for the appeal had to be submitted prior to the next meeting of the Planning & Development Control Committee.

Councillor Heesom was concerned that the evidence before Members was misleading and reiterated his request for a special meeting to be held to consider the report.

On being put to the vote, the proposal to defer consideration of the report was LOST.

Agenda item 6.1

The Democracy & Governance Manager commented on application 6.1 (Full application – erection of 20 no. semi-detached dwellings, part reconfiguration of existing (unadopted) road and extending to form new road layout) and the supplementary report which had been sent out to Members in advance of this meeting. He said that it was important that Members had clear written advice before reaching a decision, which he did not feel that Members currently had. At the time of the agenda setting meeting, advice had not been received from the Valuation Office which led to the original report not receiving the normal consideration by others prior to despatch of the agenda. The information had now been received and this led to the supplementary report being issued. He advised that Members needed to

decide whether to deal with the application today or defer it to a subsequent meeting to allow one comprehensive report to be considered by the Committee at the next meeting. The Head of Planning said that it was the first time that the principle of viability had been before the Committee. Councillor M.J. Peers proposed that the application be dealt with at this meeting.

Councillor A.I. Dunbar sought advice on his position in relation to agenda item 6.1. In response, the Democracy & Governance Manager suggested a short adjournment to allow him to advise Councillor Dunbar. Following the adjournment, Councillor Dunbar indicated that he would leave the meeting during the determination of agenda item 6.1 (Full application – erection of 20 no. semi-detached dwellings, part reconfiguration of existing (unadopted) road and extending to form new road layout).

RESOLVED:

That agenda item 6.4 – Application for outline planning permission – Erection of a detached bungalow at Belmont, South Street, Caerwys (050169) be deferred.

112. FULL APPLICATION – ERECTION OF 20 NO. SEMI-DETACHED DWELLINGS, PART RECONFIGURATION OF EXISTING (UNADOPTED) ROAD AND EXTENDING TO FORM NEW ROAD LAYOUT ON LAND OFF FAIR OAKS DRIVE, CONNAH'S QUAY (048610)

The Committee considered the report of the Head of Planning in respect of this application which had been the subject of a site visit on 10 December 2012. 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. Councillor A.I. Dunbar, having earlier declared an interest in the application, left the meeting prior to its discussion.

The officer detailed the background to the report and drew Members' attention to the late observations which updated the response from the Head of Play Unit and requirements of open space provision, subsequent consultations with the Housing Strategy Manager and Director of Lifelong Learning and their requirements, based on the 20 units proposed in the application. The officer detailed the main issues which included the principle of development, provision of open space and the affordable housing element and the responses received to the consultation which included Welsh Water seeking the imposition of a Grampian style condition to allow for completion of improvement works by 31 March 2013.

The Democracy & Governance Manager reminded the Committee of his earlier comments about consideration of the application at this meeting.

Mr. G. Bell spoke against the application on the type of houses that were proposed but said that residents were not opposed to residential development. He felt that the proposed dwellings would be out of character

with the area and commented on the 130 letters of objection which had been received about the application. He raised concern about the increase in traffic as he felt that the number of properties could result in an additional 40 to 50 vehicles. He also referred to issues with the existing unadopted road, the potential overlooking and overshadowing from the three storey dwellings and potential problems with the sewerage pumps in each plot and the proximity of the overhead lines. He added that the quality and quantity of the proposed dwellings would be out of keeping with the area and the neighbouring executive style homes.

Mr. P. Moren, the applicant's agent, spoke in support of the application referring to the extensive negotiations that had taken place. The site had been allocated for housing in the Unitary Development Plan (UDP) and the Council had not prepared a development brief for the wider housing allocation which would yield 87 dwellings of a mix of three and four bedroom units. Mr. Moren said that the applicant was happy to accept the recommendation in paragraph 2.01 and the identified planning conditions and added that any further conditions could not be justified by national or local policy.

Councillor D. Butler proposed the recommendation for approval which was duly seconded. He said that the site had gone through the UDP process and that the housing types proposed would provide much needed social housing. Councillor R.C. Bithell said that there was no reason to refuse the application and commented on the works to be undertaken to the road and footways which would bring it up to adoptable standard.

One of the local Members, Councillor P. Shotton spoke on behalf of the residents of Fair Oaks Drive. He said that a petition of 130 signatures and 158 letters of objection had been submitted which showed the strength of feeling against the application. He said that if the conditions were strictly adhered to then the application would be acceptable to the residents. He commented on the concern about the three storey properties and the breach of condition no. 7 attached to application 034942 which was being investigated by the Enforcement Section. He felt that a toddler's playing area should be included in the site and also commented on concern about pylons near to the site which he felt should be considered before any development took place.

The other local Member, Councillor R.P. Macfarlane said that the original report had caused confusion but this had been clarified by the supplementary report which had been circulated. He spoke of the issue of viability and said that the applicant was facing significant costs for the diversion of a gas main on the site.

The Democracy & Governance Manager said that he felt that point (b) in the recommendation was better dealt with under condition 1.

Councillor R.B. Jones said that the principle of development was clear but what was not clear was the topography of the area as the three storey properties would create overlooking issues. He referred to paragraph 7.07 and said that if the number of dwellings was now being reduced to 14, then

the figures within the report would have to be reconfigured. He proposed deferment of the application to clarify whether the proposal was for 14 or 20 properties, where the recreation area would be and the topography of the three storey dwellings on the site; the proposal was duly seconded.

The Democracy & Governance Manager reiterated his earlier comments about deferring the application to allow for one comprehensive report to be submitted to a subsequent meeting of the Committee. On being put to the vote, the proposal to defer the application was CARRIED.

RESOLVED:

That consideration of the application be deferred to a subsequent meeting of the Planning & Development Control Committee to allow clarity on:-

- (i) whether the proposal was for 14 or 20 dwellings
- (ii) where the recreation area would be
- (iii) the topography of the site

113. FULL APPLICATION – CAR PARK PROVISION, ACCESS ROAD AND STRUCTURES FOR USE IN CONJUNCTION WITH PROPOSED ALLOTMENTS FACILITIES AT LAND AT UPPER ASTON HALL LANE, HAWARDEN (049765)

The Committee considered the report of the Head of Planning in respect of this application which had been the subject of a site visit on 10 December 2012. 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. Councillors A.M. Halford and D.I. Mackie, having earlier declared an interest in the application, left the meeting prior to its discussion.

The Head of Planning explained that a complaint had been received about the way the application had been handled but he advised Members that determination of the application could proceed today. If issues were identified during consideration of the complaint, the application could be submitted back to a subsequent meeting of the Committee. Councillor R.C. Bithell queried whether the application should be deferred but was advised by the Democracy & Governance Manager that the application could be determined at this meeting.

The officer detailed the background to the report and drew Members' attention to the late observations. She referred Members to the plan which accompanied the report and said that the settlement boundary had not picked up the extensions to the gardens of numbers 55 to 63 Upper Aston Hall Lane which had been granted previously. Some of the objections to the application referred to the curtailing of a public right of way but the officer explained to Members that there was no public footpath through the site. She detailed the main visual and residential impacts and said that the development did not have any significant impact on the amenity of the area, however the proposal

would be visible from the dwellings on Upper Aston Hall Lane and The Ridgeway. A photograph was displayed for the Committee which showed similar allotments which had been visited by Hawarden Community Council. The proposal complied with UDP policies and was encouraged by national guidance.

Mr. Sharkey spoke against the application on the grounds of highway safety due to visibility and the bend in the road which he felt was hazardous. He said that the description of development was inadequate and that the site was unfit for development as it would require significant earth works. He added that the site had badgers and bats and was in the green barrier, the development being contrary to national and local policy. He referred to works which had been undertaken on the site previously which had damaged his fence and he felt that if site was granted for allotments, the issue of anti-social behaviour would increase.

Mr. N. Barnes, spoke in support of the application on behalf of Hawarden Community Council. He said that the Community Council were legally required to find a suitable site when they believed that there was demand for allotments. The number of requests totalled 57 and in January 2011 the Community Council wrote to Flintshire County Council to advise of their requirement for a site. He referred to the application for properties number 55 to 63 Upper Aston Hall Lane to extend their gardens and stated that this land had previously been used as allotments in the 1980's. He said that the objections to the application were mainly from residents on Upper Aston Hall Lane but two had registered their interest in an allotment. Technical Advice Note (TAN) 16 had been complied with and Mr. Barnes explained that the site would be edged by edible hedging.

Councillor Bithell proposed the recommendation for approval which was duly seconded. He welcomed the proposal and the uniformity in style and colour of the proposed sheds so as not to create an eyesore. He felt that the use as allotments was acceptable and added that it would not cause problems of visual amenity as mentioned in the objections received on the application. He said that those using the allotments would not all arrive at the same time and would therefore not cause the traffic problems suggested by the objections.

Councillor D. Hutchinson raised concern about the ongoing maintenance of the site by the Community Council and sought assurance that this would be undertaken. Councillor W.O. Thomas concurred with the use of the site which he felt would tidy up the overgrown area.

Councillor R.B. Jones proposed the addition of a further condition that the common and unused areas be maintained by Hawarden Community Council. In response, the Planning Strategy Manager said that those tending the allotments would have to sign an agreement and any infringement could mean that they would need to vacate the plot. He did not feel that an additional condition was required for this issue. Councillor Bithell disagreed with the need for the extra condition and would not incorporate it into his

proposal to approve the application. Councillor Jones put forward an amendment to include an additional condition for the common areas to be maintained by Hawarden Community Council which was duly seconded. On being put to the vote, the amendment was CARRIED. This became the substantive motion and on being put to the vote was CARRIED.

RESOLVED:

That planning permission be granted subject to the conditions detailed in the report of the Head of Planning and subject to the additional condition for the common and unused areas to be maintained in a tidy condition to the satisfaction of the Local Planning Authority.

114. APPLICATION FOR OUTLINE PLANNING PERMISSION – ERECTION OF 12 NO. DWELLINGS INCLUDING DEMOLITION OF EXISTING OUTBUILDINGS AND CREATION OF A NEW ACCESS AT BANK FARM, LOWER MOUNTAIN ROAD, PENYFFORDD (050003)

The Committee considered the report of the Head of Planning in respect of this application which had been the subject of a site visit on 10 December 2012. 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 Development Manager referred to the site history highlighting the relevance of certain applications to the determination of this application. He identified that the main planning issues were the principle of development, in relation to previously developed land and sustainability/locational factors which were detailed in the report. He stated that the other considerations, scale/form of development, highways and ecology, only came in to play if the first two tests were passed. The officer then highlighted the basis for previous decisions to resist residential development on this land, referring to extracts from decisions by the relevant Inspectors, the Welsh Assembly's Planning Decisions Committee and from Planning Policy Wales, all of which were presented in the report. He asked Members to base their determination of the current application on whether or not there had been material changes in planning policy and/or in any other material planning considerations since the decisions were taken previously to refuse planning permission for residential development at the site, and not to allocate the site in the Unitary Development Plan (UDP) for use for residential development. The applicant, through his agent, had indicated that there were material changes in circumstances and these were detailed in paragraph 7.15 of the report.

The Development Manager explained that independent legal advice had been sought on the interpretation of previously developed land (PDL) as this was an important factor in the determination of the application. On the basis of the advice, it was the view of officers that the land occupied by the dwellinghouse and its curtilage did constitute PDL as it met the definition contained in Figure 4.3. but that the remainder of the site did not. He agreed with the conclusion of the Assembly in 2005 that land occupied by buildings

previously used for agricultural purposes but which had not been put to any other use since then, should not be regarded as PDL. The officer concluded that whilst the dwellinghouse and its curtilage should be regarded as PDL, the remainder of the application site (and therefore the majority of the site) was not PDL. However, in referring to Paragraph 7.26 of the report he advised that the question of PDL was not critical as the development failed to meet other criteria, particularly that of sustainability.

He commented in detail on the sustainability and locational factors referring to the advice in PPW that not all previously developed land is suitable for development. He mentioned that the lack of sustainability had been a factor in previous decisions relating to the site and that it was considered that the inclusion of bus stops and the creation of a footpath did not make it sustainable. He referred to the fact that the need for new housing in the settlement of Penyffordd/Penymynydd was being met through allocations in the UDP and therefore there was no justification in seeking to provide additional housing in open countryside locations. He touched briefly on the other considerations identified in the report, stating that the design proposed, being urban in nature, was inappropriate. In summing up he said that the planning position had been clearly set by previous decisions in relation to this land and that nothing had materially changed on this application, either in terms of policy or what was now being put forward by the developer to warrant a different decision and therefore the recommendation was one of refusal.

Mr. S. Goodwin, the agent for the applicant, spoke in support of the application and indicated that in his view, the site was a brownfield site. He spoke on the comments made by the Planning Officer on the issues of sustainability and the view by the officer that there had been no material changes since the 2005 application. Mr. Goodwin said that the scale of the site had changed as the number of dwellings proposed had reduced from 20 to 12 and two new bus stops had been provided outside the site and a footpath to Penyffordd was proposed. He felt that the site was sustainable and reminded Members that this was an application for outline permission and issues of design would be dealt with at reserved matters stage. He also referred to another development at Meadowslea Hospital, comparing the circumstances to the current proposal. He requested that the Committee approve the application to remove this visually harmful site.

Councillor M.J. Peers moved approval of the application against officer recommendation which was duly seconded. He referred to paragraph 7.09 of the report and the consideration of the application which was called in and refused by the Welsh Assembly Government's Planning Decision Committee. Councillor Peers spoke about the definition of PDL and said that the opinion of the Inspector was not included in policy guidance at the time and was not included in current policy. He spoke of the growth rate of Penyffordd/Penymynydd and said that the current scheme had been designed to take into account the concerns expressed by the Assembly's Planning Decisions Committee that the previous proposal resembled a 'modern housing estate'. He said that the development would be of a high quality

design and would not be harmful to the countryside. He referred to the application on the Meadowslea site in Penyffordd which was also in the open countryside and commented on the Warren Hall Business Park which was outside the settlement boundary and in the open countryside but which had been permitted due to its high quality design. On the issue of sustainability, he said that the site was in walking distance of Penyffordd and that the application was in accord with the Planning Policy Wales guidance for sustainability.

Councillor R.G. Hampson said that the site was a blot on the landscape and that developments should be allowed to take place where possible. The number of dwellings was being reduced from 20 to 12 which was significant and the site was accessible to Penyffordd due to a footpath being proposed and the two bus stops being put in place outside the site.

Councillor D. Butler referred to the long history on the site and the previous application which had been refused in 2005 after being called in by the Welsh Government. The UDP had gone through a rigorous process and the site had never been included in the UDP as a site for housing allocation. He felt that there were no material changes in this application when compared with the application refused in 2005. He said that map showed that the site was not in Higher Kinnerton but was in Penyffordd, where there was already overprovision of dwellings. A footpath was to be created to Penyffordd which would mean that the site was not sustainable for the area of Higher Kinnerton. Councillor D. Butler requested a recorded vote and was supported by the requisite five other Members.

Councillor R.C. Bithell said that there was a fundamental planning presumption against new build in the open countryside and outside the settlement boundary; this proposal was a flagrant breach of both. He felt that it should be rejected as outlined in the report as it had been refused on two previous occasions and had been rejected by the Inspector and not included within the allocation sites for the UDP. He said that if the application was approved, it would undermine planning policy and would set a precedent and to argue that the site was a mess was not a sufficient reason to allow the application. Councillor Bithell added that there was no need for the development as other applications had been approved on other sites which had not yet been used. He referred to the reduction in the number of dwellings from 20 to 12 and on the issue of the indicative layout, he said that this was not what the site could look like if approval were given. He felt that the application should be refused.

Councillor W.O. Thomas spoke of the Meadowslea site which was in the open countryside and which had been approved and he referred to policy CF11 which he felt should be considered over policy HSG6. He queried whether the housing needs in Flintshire were being provided for and added that this housing development was in a perfect place. Councillor R.B. Jones said that the farm buildings on the site had not been used for 15 years and he commented on the application on the Meadowslea site which he felt set a precedent. He referred to the comments of the Inspector about making the

best use of the site at Meadowslea and said that these comments should also be applied to this site. He said that because of the provision of the footpath and the bus stops, this made the site sustainable and added that this application showed that the applicant had tried to overcome some of the issues which had been raised by the Inspector in 2005.

Councillor A.I. Dunbar spoke on behalf of Councillor C. Hinds who was the adjoining local Member as she was unable to attend this meeting. Her comments included that the site was outside the settlement boundary, went against planning policy, the growth in the area was already nearly 30% and that WG had refused the previous application.

Councillor H.G. Roberts said that there was no reason to go against planning policy and concurred that if this application was approved it would set a precedent. He felt that the application should not be permitted just because the area was an eyesore and on the issue of the buildings being dangerous, he said that the owner was duty bound to make sure that the buildings were secure. If the outline application was approved at this meeting, he felt that it would be difficult to refuse it at the reserved matters stage when it had been approved in principle. Councillor Roberts queried the amount of land which had been allocated for housing in the UDP had been left undeveloped and he felt that the provision of a bus stop outside the site did not mean that a residential development outside the settlement boundary should be permitted.

Councillor C.A. Ellis queried whether independent legal opinion had been sought on what the outcome might be if the application were refused and then appealed by the applicant as she felt that a precedent had been set by the Meadowslea and Dobshill sites. She concurred that the site was now sustainable as a footpath and two bus stops were to be provided by the site.

Councillor P.G. Heesom said that the application had to be dealt with on its merits and said that the main points to consider were that the footprint was already in the countryside and the landscape was already damaged. The site would not encroach into the Penyffordd area and the reasons for refusal put forward were theoretical and draconian. Another material consideration was that the site was PDL and that something had to be done with the site and that this application would enhance the area. He also mentioned the Dobshill and Meadowslea sites which he felt could not be ignored when considering this site and that precedence could not therefore be used as an argument. He said that he could not see any reason to refuse the application.

The Head of Planning said that legal opinion had been sought due to the significant differences in opinion on whether the land was PDL; the advice clarified that the farmhouse and its curtilage was PDL. Advice had also been sought about what would happen if the light industrial permission was implemented. As reported in paragraph 7.24, this would constitute development of the redundant agricultural buildings by way of a material change of use and the land occupied by those buildings would then be PDL, thereby rendering the site in its entirety PDL from that point onwards. The

legal opinion added that the proximity of the site to Penyffordd and the scale of the site were two substantial reasons to refuse the application.

In response the Development Manager expressed concerns over the comments of Members that we should allow developments wherever we can and whether we were providing the need for housing. He stated that the need in Penyffordd/Penymynydd was being met through the allocations in the UDP, both of which were under construction. With regard to the Meadowslea and Dobshill hospital sites he advised that this could not be used as a comparator as there was a specific policy in the UDP which referred to former institutional buildings outside settlement boundaries, based on such distinction in PPW. The Planning Strategy Manager added that policy CF11 of the Alyn & Deeside Local Plan specifically dealt with hospital sites and it was that positive policy presumption that was the main factor in the decisions reached on those two applications. On the issue of land for housing, he said that there currently was an 8 or 9 year supply. The Development Manager, referring to other factors that had been raised, added that there was also a policy in the UDP which supported the extant permission on the site for the conversion of the buildings to light industrial use. He said that if this application was approved, it would set a precedent for a number of similar sites to come forward which would undermine the Council's policies. He reiterated the fact that the majority of the site, with the exception of the dwelling house and curtilage, could not be considered to be PDL at the present time, but regardless of this the development did not meet the sustainability tests. Once the principle of development had been established there would be little safeguard over the form or scale of development. It was the officer recommendation that the application be refused for the reasons given

In summing up, Councillor Peers said that he felt that he did not require a legal opinion to determine whether it was PDL and that the application should be determined on its merits. He believed that the site was sustainable because of the changes since 2005. He spoke of the comments of Councillor Jones on the Meadowslea site and reiterated that he was proposing approval of the application.

On being put to the vote, the proposal to grant planning permission against officer recommendation was carried by 13 votes to 6 with the voting being as follows:-

FOR – GRANTING PLANNING PERMISSION

Councillors: D. Cox, A.I. Dunbar, C.A. Ellis, J. Falshaw, R.G. Hampson, P.G. Heesom, R. Hughes, D. Hutchinson, R.B. Jones, D.I. Mackie, M.J. Peers, W.O. Thomas and D.E. Wisinger

AGAINST – GRANTING PLANNING PERMISSION

Councillors: R.C. Bithell, D. Butler, D. Evans, M. Lowe, N. Phillips and H.G. Roberts

The Head of Planning advised the Committee that as the application had been advertised as a departure from policy, he would consider referring the decision to the Welsh Government, who may choose to call it in.

RESOLVED:

That planning permission be granted subject to conditions to be determined by the Head of Planning.

115. FULL APPLICATION – ERECTION OF A NEW SCHOOL AND ASSOCIATED WORKS AT TALIESIN JUNIOR SCHOOL, TALIESIN AVENUE, SHOTTON (049990)

The Committee considered the report of the Head of Planning in respect of this application. 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 which included an additional condition for a landscape scheme to be submitted and approved.

Councillor D. Evans proposed the recommendation for approval which was duly seconded.

Councillor P.G. Heesom referred to paragraph 7.21 and raised concern about possible land contamination on the site and in response, the officer highlighted conditions 11 and 12.

RESOLVED:

That planning permission be granted subject to the additional condition in the late observations and subject to the conditions detailed in the report of the Head of Planning.

116. FULL APPLICATION – RETENTION AND EXPANSION OF FACILITIES AT EXISTING STREETSCENE DEPOT AT LAND AT ALLTAMI DEPOT, MOLD ROAD, ALLTAMI (049845)

The Committee considered the report of the Head of Planning in respect of this application. 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 application had been deferred at the meeting on 7th November 2012 pending receipt of further advice in relation to the proposed food recycling activities at the site.

Mr. S. Jones spoke in support of the application explaining that this was part of the reorganisation of facilities and the application had two main purposes which were, to seek consent to continue the functions at Alltami and

to complete the remodelling work on the site. He said that the proposals had been fully costed and work would go ahead subject to the outcome of this application. He provided details on the four departments which would be operating from the site and spoke of the three main elements to the site which included the proposal to re-clad the 'red shed', to demolish the concrete building and replace it with a purpose built building and to house the food waste facility. He explained that no food waste was left on the site in the evening as it was transferred to the current food waste recycling centre in Telford which was a temporary measure until the regional food waste facility at Rhualt became operational, whereupon the wastes would be transferred there at the end of each day.

Councillor W.O. Thomas proposed the recommendation for approval which was duly seconded. He welcomed the decision to house all of the services on the same site.

Councillor M.J. Peers said that he had proposed deferment at the previous meeting due to concerns about possible double handling of the food waste. He explained that a meeting had taken place with the local Member and the Head of Streetscene who had confirmed that double handling did not take place.

The local Member, Councillor C.A. Ellis congratulated the Head of Streetscene for the consultation which had been undertaken with the neighbouring residents and she reminded Members that no letters of objection had been received as the issues had been addressed. She raised concern about the speed of traffic on the A494 and said that she had previously asked for a reduction in the speed limit. She also asked whether the hours of operation could be conditioned to be 7am to 6pm with the exception of gritting work which could be required 24 hours per day in the winter.

Councillor P.G. Heesom raised concern about whether the site had the capacity to house all of the proposed services and said that the traffic problems at the junction with the A494 would increase. Councillor R.B. Jones requested that an additional condition be included that the food waste not be taken to Brookhill or Standard sites. The officer said that the A494 was a trunk road so the authority did not have the jurisdiction to amend the speed limit but advised Members that the traffic volume as a result of the proposal had been considered.

Councillor Ellis asked whether it was possible to ask the Trunk Road Agency to reconsider the traffic impact and a reduction in the speed limit.

In response to the request to condition for hours of operation, the officer said that there were elements of work at Alltami depot which required 24 hours of operation. He said that hours of operation for the various elements could be identified and conditioned accordingly. On the issue of highways, the Senior Engineer - Highways Development Control confirmed that the Trunk Road Agency had jurisdiction over the A494.

The Democracy & Governance Manager confirmed that the extra conditions requested during the discussion were for hours of operation and that no food waste to be taken to either Standard or Brookhill sites. A request was also made that a letter be sent to the Welsh Government about concerns on the speed limit on the A494. An additional condition regarding surface water drainage was also included in the late observations sheet. Councillor Thomas confirmed that the extra conditions could be incorporated into his proposal to approve the application.

RESOLVED:

- (a) That planning permission be granted subject to the conditions detailed in the report of the Head of Planning and to the following additional conditions identified during the determination of the application:-
 - i) Hours of operation in relation to different functions
 - ii) Food waste not to be taken to another handling facility in the County prior to its final disposal
 - iii) drainage conditions from the late observations sheet
- (b) That a letter be sent to the Welsh Government from the Head of Planning on behalf of the Planning Committee to seek a reduction in the speed limit on the A494.

117. FULL APPLICATION – ERECTION OF A FRAME MOUNTED FUNNEL WHEEL WIND TURBINE AT ALLTAMI DEPOT, MOLD ROAD, ALLTAMI (050145)

The Committee considered the report of the Head of Planning in respect of this application which had been the subject of a site visit on 10 December 2012. The usual consultations had been undertaken and the responses received detailed in the report.

The officer detailed the background to the report and explained that the height of the turbine would be 12.76m and it was proposed that it would generate electricity in excess of 70,000 kwh of electricity. The main issue was visual impact but a detailed appraisal of this had been carried out and the turbine would be largely screened from public areas.

Councillor H.G. Roberts proposed the recommendation for approval which was duly seconded.

The local Member, Councillor C.A. Ellis, sought clarification on the design of the turbine and asked if a temporary permission could be given to allow for noise problems to be monitored.

Councillor M.J. Peers said that Members on the site visit had been told that the design of the turbine had been changed from what had been presented in the consultation period and queried whether a reconsultation exercise should have taken place because of this. He added that the principle

of the development had been accepted. In response, the Development Manager said that the proposed design was being displayed on the screen at this meeting and that some of the moving parts were now to be enclosed. It had never been stated that the turbine would not create any noise but it was unlikely that it would have a detrimental impact on the nearest properties which were 300 and 310 metres away. He added that the noise would have to be significantly greater than what was already in place and a temporary permission could only be justified if there was evidence of potential noise nuisance which was not the case.

Councillor Ellis proposed an amendment that a temporary permission of 12 months be granted, and this was duly seconded.

Councillor R.C. Bithell said that the Public Protection department had raised no objections to the application. The Planning Strategy Manager concurred and referred Members to paragraph 7.17 where the view of the Head of Public Protection was reported that they were satisfied that the level of noise was not detrimental to the amenity of nearby residents. In response to a query from Councillor W.O. Thomas, the Head of Planning said that a condition could be applied for the noise impact to be reviewed. He suggested that a noise monitoring scheme be put in place and that enforcement action be undertaken if this was not complied with. Councillor Roberts, as the mover of the proposal, confirmed that this condition could be incorporated into his proposal.

RESOLVED:

That planning permission be granted subject to an additional condition for a noise monitoring scheme to be approved and implemented and subject to the conditions detailed in the report of the Head of Planning.

118. FULL APPLICATION – CHANGE OF USE FROM PUBLIC HOUSE TO A SINGLE DWELLING, INCLUDING PART DEMOLITION AND ALTERATIONS, TOGETHER WITH THE CREATION OF A NEW VEHICULAR ACCESS AT WHITE LION INN, FFORDD PEN Y BRYN, NERCYWS (050024)

The Committee considered the report of the Head of Planning in respect of this application which had been the subject of a site visit on 10 December 2012. 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 highlighting the main issues for consideration which included the principle of development, the highway implications and the effects of the partial demolition, extensions and alterations upon the character and appearance of the building.

Mr. B. Rudham, the agent, spoke in support of the application and provided further information on the various extensions and lean-to elements of

the building. He felt that removal of the lean-to would allow the building to be more in keeping with a dwelling and that the extension proposed would not be excessive as it would only amount to an increase of 42% on the original building after removal of all of the single storey elements. He added that the materials would all match the original building and referred to policies HSG12 and HE1 on extensions and alterations.

Councillor R.C. Bithell proposed the recommendation for refusal which was duly seconded.

The local Member Councillor N.M. Matthews spoke in support of the application. She said that the building was in a conservation area but was not a listed building and the public house had ceased trading four years ago and there had been no interest in the building. She felt that the proposal would return the building to its original use and would enhance the area and said that the residents in the village would like something done to the building. She commented on the problems of flooding in the cellar which occurred regularly and added that the proposals for highways amendments would improve the area. Councillor W.O. Thomas felt that something needed to be done to the building and that a sympathetic use would be beneficial to the area.

The officer said that the extension at the front of the public house which was part of the character of the property and the vernacular, including its close proximity to the road. The Planning Strategy Manager said that the building would not be in the conservation area if it did not make a contribution and negotiations had taken place with the applicant to try to identify a proposal which was agreeable to all parties and he therefore felt that refusal was the correct way forward.

In summing up, Councillor Bithell said that the impact of the building on the conservation area had to be considered and the two storey extension was deemed to be out of character with the area.

RESOLVED:

That planning permission be refused for the reasons detailed in the report of the Head of Planning.

119. FULL APPLICATION – SUBSTITUTION OF 8 NO. HOUSE TYPES ON LAND AT (RESIDENTIAL DEVELOPMENT – ALLTAMI HEATH), FIELD FARM LANE, BUCKLEY (050151)

The Committee considered the report of the Head of Planning in respect of this application. The usual consultations had been undertaken and the responses received detailed in the report.

The officer detailed the background to the report which was a full application proposing the substitution of house types on 8 no. plots and erection of an additional dwelling. He detailed the consultations which had

been undertaken and explained that no objections had been received from the formal consultees.

Ms. L. Hawley, spoke in support of the application on behalf of the applicant. She said that work on the site had commenced and sales on the site had been encouraging. This application was being submitted as the result of an improved internal layout and did not introduce any previously unused house types on to the site. She detailed the shared equity scheme offered by the applicants and added that the proposal was due to a change in market demands.

Councillor R.C. Bithell proposed the recommendation for approval which was duly seconded.

The local Member Councillor C.A. Ellis said that this was the second change in house types since the original application had been permitted and she concurred with the first point made by Buckley Town Council. She raised concern as she felt that the proposed changes to the site were going away from what had originally been permitted.

In response, the officer said that it was not unusual to receive amendments to schemes which affected a relatively small part of the site and he added that the proposal did meet planning guidance standards.

RESOLVED:

That planning permission be granted subject to the conditions detailed in the report of the Head of Planning.

120. FULL APPLICATION – ERECTION OF A DWELLING REPLACING A DESIGN PREVIOUSLY APPROVED AS PART OF APPLICATION REFERENCE 043470 AT THE CROFT, ALLTAMI ROAD, BUCKLEY (049850)

The Committee considered the report of the Head of Planning in respect of this application. The usual consultations had been undertaken and the responses received detailed in the report.

Councillor H.G. Roberts proposed the recommendation for approval which was duly seconded.

RESOLVED:

That planning permission be granted subject to:-

- i) the applicant entering into a Section 106 Obligation/Unilateral Undertaking to provide the following:-
 - Ensure the payment of a contribution of £2500 to the Council for ecology mitigation. Such sum to be paid to

the Council prior to the occupation of the dwelling hereby approved.

- ii) the conditions detailed in the report of the Head of Planning.

121. GENERAL MATTERS - ERECTION OF KELSTERTON CONVERTER STATION COMPRISING VALVE HALLS, A CONTROL BUILDING AND A SPARES BUILDING TOGETHER WITH OUTDOOR ELECTRICAL EQUIPMENT AND ASSOCIATED INFRASTRUCTURE, SECURITY FENCING, LANDSCAPED AREAS AND HABITAT CREATION AT CONNAH'S QUAY POWER STATION, KELSTERTON ROAD, CONNAH'S QUAY (049981)

The Committee considered the report of the Head of Planning in respect of this application. The officer detailed the background to the report and reminded Members that the application had been refused at the Planning and Development Control Committee meeting held on 10th October 2012 on the grounds of noise and visual impacts. (The report to that committee was circulated with the late observations) He advised that as an appeal had been lodged the view of an external noise consultant had been sought and the advice given was that the noise issue was not defensible on appeal. The Head of Planning said that if agreed at this Committee, then the appeal would continue with the refusal reason of visual impact and advised Members that an application had now been received for an alternative site on the north side of the river.

Councillor R.B. Jones proposed the recommendation to authorise officers to defend the proposal based on refusal reason 1 minus any specific reference to noise which was duly seconded.

Councillor A.I. Dunbar said that residents would not be happy with the proposal to remove noise as a reason for refusal and asked whether the evidence from the noise study could be provided. Councillor R.C. Bithell reminded the Committee of the gypsy site application at Ewloe which did not include noise in the reason for refusal but when the decision was appealed, the Inspector included noise as one of the reasons to dismiss the appeal. He therefore queried whether the Inspector would think that the issue of noise should have been mentioned in the refusal reasons. In response, the Head of Planning said that the difference on this application was that it had been mentioned but there was no evidence to support the refusal for this reason.

RESOLVED:

That officers be authorised to defend the proposal based on refusal reason 1 but without any specific reference to noise.

122. GENERAL MATTERS – VARIATION OF S.106 AGREEMENT TO CHANGE THE ORIGINAL STATUS OF 1 LLYS DEWI, PENYFFORDD, HOLYWELL FROM BEING SHARED OWNERSHIP TO HOMEBUY TENURE AT 1 LLYS DEWI, PENYFFORDD, HOLYWELL (050222)

The Committee considered the report of the Head of Planning in respect of this application. The usual consultations had been undertaken and the responses received detailed in the report.

Councillor R.C. Bithell proposed the recommendation to change the terms of the section 106 obligation which was duly seconded.

RESOLVED:

That the terms of the Section 106 obligation be changed to allow the change to tenure.

123. APPEAL BY URBAN VISION (UK) LTD AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE ERECTION OF 1 NO. DETACHED DWELLINGHOUSE AND GARAGE WITH PRIVATE DRIVE AT 12 LLYS Y WENNOL, NORTHOP HALL (047127)

Following a comment from Councillor P.G. Heesom about the refusal of the application by Committee against officer recommendation, the Head of Planning advised that the outcome of the appeal would be considered at a future meeting of the Planning Protocol Working Group.

RESOLVED:

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

124. APPEAL BY MR. M. ROONEY AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR CHANGE OF USE OF LAND FOR THE STATIONING OF CARAVANS FOR THE RESIDENTIAL PURPOSE FOR 5 NO. GYPSY PITCHES TOGETHER WITH THE FORMATION OF ADDITIONAL HARDSTANDING AND UTILITY/DAYROOMS ANCILLARY TO THAT USE AND RETENTION OF EXISTING STABLES AT EWLOE BARN WOOD, MAGAZINE LANE, EWLOE (049152)

RESOLVED:

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

125. LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 – TO CONSIDER THE EXCLUSION OF THE PRESS AND PUBLIC

RESOLVED:

That the press and public be excluded from the meeting for the following agenda item which was considered to be exempt by virtue of paragraph 16 (legal advice) of Schedule 12A of the Local Government Act 1972 (as amended).

126. APPEAL AGAINST THE COUNCIL'S REFUSAL TO PERMIT AN APPLICATION TO REMOVE CONDITION 15 IMPOSED ON RESERVED MATTERS APPROVAL NO. 046595 RELATING TO A DEVELOPMENT AT CROES ATTI, CHESTER ROAD, OAKENHOLT – COUNSEL'S ADVICE

The Committee considered the report of the Head of Planning in respect of this application.

The Principal Solicitor detailed the background to the report and explained the advice which had been received from Counsel.

Councillor R.C. Bithell proposed the recommendation that the Planning Inspectorate be advised that the County Council did not intend to defend the imposition of condition 15 upon reserved matters approval no. 046595 which was duly seconded. He welcomed the report stating that if we continued with the appeal we would not have a leg to stand on. In seconding, Cllr G. Roberts stated that we would be subject to significant costs.

The local Member, Councillor R. Johnson, spoke against the recommendation referring to the fact that the advice obtained used the word 'almost' rather than 'sure' and that there would therefore be a case to be made at the appeal. She had not been told that she could have requested that consideration of this report could be deferred and said that the barriers would not prevent development and that the new residents would not want a 'rat-run'.

Councillor P.G. Heesom also spoke against the advice given and said that the issue of condition 15 was not what was being argued, it was the impact of the increased traffic on the residents on Prince of Wales Avenue. He spoke of the Inquiry scheduled for 30th January 2013 and said that in his opinion, the appeal could be defended.

The Principal Solicitor responded to the issues raised by Councillors Johnson and Heesom. The Head of Planning spoke of the two stages of the public inquiry.

In summing up, Councillor Bithell reiterated his view that the advice given by Planning Officers, legal officers and Counsel should be taken.

RESOLVED:

That the Planning Inspectorate be advised that the County Council did not intend to defend the imposition of condition 15 upon reserved matters approval no. 046595 at the forthcoming appeal.

127. DURATION OF MEETING

The meeting commenced at 1.00 p.m. and ended at 5.46 p.m.

128. MEMBERS OF THE PUBLIC AND PRESS IN ATTENDANCE

There were 25 members of the public and 4 members of the press in attendance.

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Chairman