

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING AND DEVELOPMENT CONTROL COMMITTEE**

DATE: **WEDNESDAY 20th FEBRUARY 2013**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **OUTLINE – ERECTION OF 71 NO. DWELLINGS AT BYCHTON HALL FARM, MAES PENNANT ROAD, MOSTYN, FLINTSHIRE.**

APPLICATION NUMBER: **047951**

APPLICANT: **MULLHILL ESTATES LLP**

SITE: **LAND AT BYCHTON HALL FARM, MAES PENNANT ROAD, MOSTYN, FLINTSHIRE**

APPLICATION VALID DATE: **19.10.2010**

LOCAL MEMBERS: **COUNCILLOR P. HEESOM**

TOWN/COMMUNITY COUNCIL: **MOSTYN COMMUNITY COUNCIL**

REASON FOR COMMITTEE: **SCALE OF PROPOSALS EXCEED THRESHOLDS FOR A DELEGATED DETERMINATION**

SITE VISIT: **YES**

1.00 SUMMARY

1.01 This is an outline planning application for the erection of 71 dwellings on land adjacent to Bychton Hall Farm, Maes Pennant Road, Mostyn. The site is allocated for residential development in the Flintshire UDP. The application provides detail in respect of access, appearance, layout and scale. Matters of landscaping are reserved for future consideration. During the consideration of the application, issues in respect of design, layout, access and highway improvement works, drainage proposals, land contamination, existing natural features, affordable housing, recreation provision and educational requirements have been negotiated and resolved subject to the imposition of conditions and a S106 agreement.

2.00 RECOMMENDATION: TO GRANT PLANNING PERMISSION, SUBJECT TO THE FOLLOWING:-

2.01 That conditional planning permission be granted subject to the applicant entering into a Section 106 Obligation/Unilateral Undertaking to provide the following:-

- a. Ensure the payment of a contribution of £162,200 to the Council for use in facilitating access to affordable homes. Such sum to be paid in 2 instalments as follows;
 1. £76,000 upon completion of the first dwelling sale upon site.
 2. £86,000 upon completion of the 35th dwelling sale upon site.
 - b. Payment of £63,000 towards educational provision/improvements at Ysgol Bryn Pennant. This contribution shall be paid upon completion of the first dwelling sale upon site.
 - c. Payment of £52,800 towards the upgrade of existing recreational facilities within the locality. This contribution shall be paid upon completion of the 35th dwelling sale upon the site.
 - d. Provision of the on site play facility for use, levelled and appropriately drained, together with play equipment installed in accordance with a detailed specification to be agreed with the LPA via conditions precedent upon completion of the first dwelling sale upon site.
 - e. Payment of £7100 to the Local Highway Authority to promote, monitor and evaluate the travel plan. Such sum to be paid prior to the commencement of development.
1. Time limit on commencement within 3years from date of outline or 1 year after Reserved Matters approval.
 2. Submission of Reserved Matters.
 3. Samples and/or precise details of all external materials to be submitted and approved.
 4. Code for Sustainable Homes "Interim Certificate" to be submitted before work commences.
 5. Code for Sustainable Homes "Final Certificate" to be submitted before houses occupied.
 6. Scheme for 10% reduction of carbon outputs.
 7. No development to commenced until a scheme for the comprehensive drainage of foul, surface and land waters approved. Surface water scheme to be implemented before any impermeable surfaces constructed.
 8. No site clearance or tree/hedgerow works during bird nesting season or unless agreed with LPA
 9. Scheme for hours of working to be agreed.
 10. Construction traffic management and routing scheme to be agreed. To include facility for wheel wash and measures to keep road free from mud arising from development site.
 11. Protective fencing as per Arboricultural report to be provided

- before works commencement.
12. Arboricultural Method Statement (AMS) to be provided in respect of all works within Construction Exclusion Zones around trees prior to any works being undertaken. Development to proceed in strict accordance with the agreed AMS. No dig construction in areas of proposed hard standing with CEZ.
 13. Phase 2 land contamination survey to be undertaken prior to commencement of development. Report to be submitted and approved.
 14. Remediation measures to be undertaken in accordance with scheme agreed and prior to occupation of dwellings. Validation and verification reports to be provided prior to occupation of the dwellings.
 15. Submission and agreement of scheme for equipping, layout, landscaping, management and maintenance of the play area and surrounding space prior to works commencement.
 16. Access works to be submitted and agreed prior to any site works commencing.
 17. Access shall be formed before any other site works and in accordance with agreed scheme.
 18. Visibility splays of 2.4m x 40m in both directions. No obstructions within the splays.
 19. Detailed layout, design, traffic calming, signage, drainage, lighting and constructional details to be submitted and agreed prior to works commencement.
 20. Scheme for the prevention of surface water run off from estate highway onto Maes Pennant Road prior to commencement.
 21. Protection of route of Footpath 106b.
 22. Provision of badger run prior to any site works being undertaken in accordance with scheme to be submitted and agreed.
 23. Precise details of highway crossing point to be submitted agreed and implemented.
 24. Full Travel Plan to be submitted prior to commencement of development.

3.00 CONSULTATIONS

3.01 Local Member Councillor P. Heesom

Considers the proposals are an overdevelopment of the site.
Requests a committee site visit.

Mostyn Community Council

Objects. Considers the proposals are excessive in scale and would give rise to adverse highway safety issues and problems with site access and egress.

Head of Assets and Transportation

No objections. Requests that a S.106 contribution of £100 per dwelling (£7100) be sought to facilitate the promotion, monitoring and

evaluation of the required travel plan. Requests the imposition of conditions.

Head of Public Protection

Advises that a Phase 1 land contamination assessment has been considered and is deemed acceptable. Requests the imposition of a condition requiring a Phase 2 investigation prior to the commencement of development and implementation of identified and agreed remediation measures prior to the occupation of any dwellings.

Public Open Spaces Manager

Advises that a door step play area of not less than 1000m² will be required upon the site.

A commuted sum equivalent to 10 years maintenance costs will be required in play area is not be offered for adoption.

A commuted sum should be sought on the basis of 66% of the total number of dwellings at £1100, with such sum being used to upgrade existing play and recreation facilities within the locality. Sum sought is £52800.

Director of Lifelong Learning

Advises that a commuted sum towards the provision of educational facilities at Ysgol Bryn Pennant to address the demands arising from the anticipated 18 additional pupils. Advises this sum should be £63000.

Head of Housing Strategy

Advises of an identified affordable housing need within the locality. Outlines 2 options to address this need. This issue is explained in greater detail in Section 7.

Welsh Water/Dwr Cymru

No objections. Requests the imposition of conditions.

Environment Agency Wales

No objections on the basis that both foul and surface waters are proposed to be drained to an existing adopted system. Requests a condition requiring the agreement and implementation of the surface water drainage proposals.

Coal Authority

No objections.

4.00 PUBLICITY

4.01 The application has been publicised by way of a press notice, site notice and neighbour notification letters.

4.02 At the time of writing, 3No. third party letters have been received in response to the publicity exercise. These raise the following observations and objections;

- a) Access inadequate to serve such a large development site;
- b) Existing highway infrastructure inadequate to accommodate development;
- c) Inadequate separation between existing and proposed dwellings;
- d) Inadequate local infrastructure;
- e) Adverse impacts upon residential amenity;
- f) Construction traffic will pose risk to elderly and child pedestrians in the village;
- g) Adverse impact upon adjacent historic farm complex; and
- h) Impact upon badgers in the locality.

5.00 SITE HISTORY

5.01 279/89

Outline – residential development
Refused 26.5.1989.

826/89

Outline – residential development
Refused 26.5.1989
Appeal Dismissed 5.6.1990.

037911

Erection of 158 dwellings
Refused 25.10.2004.

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

- Policy STR1 - New Development
- Policy STR4 - Housing
- Policy STR11 - Sport, Leisure & Recreation
- Policy GEN1 - General Requirements for Development
- Policy D1 - Design, Location & Layout
- Policy D2 - Design
- Policy D5 - Crime Prevention
- Policy TWH1 - Development affecting Trees & Woodlands
- Policy TWH2 - Protection of hedgerows
- Policy WB1 - Species Protection
- Policy AC13 - Access & Traffic Impact
- Policy AC18 - Parking Provision & New Development
- Policy HSG1(31) - New Housing Development Proposals
- Policy HSG8 - Density of Development
- Policy HSG9 - Housing Mix & Type

- Policy HSG10 - Affordable Housing within Settlement Boundaries
- Policy SR5 - Outdoor Playing Space & New Residential Development
- Policy EWP2 - Energy Efficiency in New Development
- Policy EWP3 - Renewable Energy in New Development
- Policy EWP14 - Derelict & Contaminated Land.

6.02 The application site is located within the settlement boundary of Mostyn as defined within the Flintshire Unitary Development Plan and is allocated as a site for housing development. Therefore the proposals are considered acceptable in principle.

6.03 The question for consideration is whether the proposals accord with the other policies in respect of the detail of the proposals. As is demonstrated in the appraisal set out in Section 7 of this report, the proposal satisfies these matters of detail. Accordingly, I consider that the proposal generally complies with the above policies.

7.00 PLANNING APPRAISAL

Site Description

7.01 The site comprises a 1.8 hectare area of agricultural land currently in use for the grazing of horses. The site is broadly rectangular in shape and occupies a position upon the western extremes of the settlement of Mostyn.

7.02 The site occupies a position upon rising ground above the existing settlement abutting areas of open countryside. It is generally flat across its northwest – southeast axis but there is a steady gradient down slope from the south west towards the existing residential estate at Bodhyfryd to the north east. This site topography is reflective of the landform in the wider area.

7.03 The site abuts a small copse of woods to its north eastern edge which is a designated Green Space. The site abuts further agricultural land to the north west although the site is part of this larger land holding and therefore, there is no formal demarcation of this boundary. The County highway, Maes Pennant Road abuts the south eastern edge of the site with this boundary formed by a well established hedgerow and bank. The south western edge of the site is formed by the limits of the historic 19th century farm complex, Bychton Hall Farm. The limits of the site equate with the base of a bank, upon the top of which is one of the range of outbuildings to the farm.

7.04 There is presently no vehicular access directly to the site from Maes Pennant Road.

The Proposed Development

7.05 The proposal seeks to establish the principle of the residential development of this site to provide 71No. detached, semi-detached

and terraced dwellings, in 2 storey format. The proposed composition is;

41 x 3 bed units, and
30 x 4 bed units.

All the dwellings would achieve Level 3 of the Code for Sustainable Homes.

- 7.06 The proposals are submitted in outline but the majority of detail is provided. The scheme includes the creation of vehicular and pedestrian access points onto Maes Pennant Road and links with the adjacent Footpath 106b, together with the provision of estate highways. The scheme also includes the provision of a 1000m² area of open space intended as a doorstep play facility.

Main Planning Issues

- 7.07 It is considered that the main planning issues can be summarised as;
- a. Principle of development having regard to the planning policies and other material considerations,
 - b. Design.
 - c. Highways and access.
 - d. Land contamination.
 - e. Landscape and ecology.
 - f. Public open space and recreation provision.
 - g. Affordable Housing.
 - h. Education contributions.
 - i. Viability and S.106 requirements.

Principle of Development

- 7.08 The site is allocated for residential development in the Flintshire Unitary Development Plan, with an expected yield of 54 dwellings. The principle of development has therefore been accepted.
- 7.09 The indicative yield of 54 dwellings within the UDP accords with the amendments made by the Inspector that all allocated housing sites should achieve a minimum of 30 dwellings per hectare (dph) unless there are particular constraints or issues which indicate a lower density is appropriate. Policy HSG8 - Density of Development, seeks to make the most efficient use of land whereby the density of development should be optimised, whilst having regard to the characteristics of the site and surroundings and making provision for a high quality living environment in terms of privacy and space.
- 7.10 In the case of this proposal, the yield exceeds that identified within the

UDP. The provision of 71 dwellings amounts to a density of 38 dwellings per hectare (dph) and, whilst above the expected yield identified by the Inspector, this yield should not be seen as a target, but a guideline. Indeed, the UDP advises that density should be considered against the factors such as the character of built form in the locality. The character of built form within Mostyn is one of high density housing. The development proposals reflect this fact and given that fact that the required levels of separation and spacing are achieved, I see no fundamental objection to the density of development proposed. Accordingly, I consider the layout to represent a balance between the aims of policy and all other material considerations.

7.11 Therefore, the proposed residential development of this site is considered to be acceptable in principle.

7.12 Design Considerations

The proposed design and layout of this scheme has been the subject of negotiation and discussion over the course of the consideration of the application and has been amended in line with comments arising from the consultation process. The proposals were also informally discussed with members of the Design Review Panel of the Design Commission for Wales (DCW) and the input arising from this discussion has, in part, been reflected within the proposed scheme.

7.13 The scheme has evolved to respond to and reflect the characteristics of built form within the locality. The proposed layout delivers a form which echoes the strong linear patterns of built form both within the settlement and the adjacent historic farm complex. This linear character is reflected in the arrangement of strong ribbons of built form which, allowing for the break of Maes Pennant Road, continue these existing lines. The layout takes full account of the existing dwellings adjacent to the site by maintaining adequate separation distances, in line with Council standards on space about dwellings and overlooking to secure privacy and amenity as well as respecting the private gardens of adjacent houses.

7.14 The wider area is characterised by a mixture of property types but with two identifiable styles. These are the more modern house types apparent at Bodhyfryd and the post war former Local Authority Housing which comprise most of the dwellings within the settlement. The applicant has sought to create a development which recognises this influence but does not seek to replicate these styles. Accordingly, features such as steeply pitched roofs are proposed and the palette of proposed materials, being brick, render and slate, accords with the existing built form.

7.15 Accordingly I consider the proposals provide an adequate and appropriate response to the design issues raised in connection with the consideration of this application.

7.16 Highways and Access

Vehicular access to the site is proposed to be derived via a new junction with Maes Pennant Road within the south eastern boundary, facilitating access to both the County highway network and existing adjacent residential estate roads. The application is accompanied by a transport assessment which highlights that the site is sustainably located in transport terms and makes provisions to access the existing links to the good public transport network which serves the village.

7.17 The creation of this point of access will require the removal of a short length of the existing hedgerow, However, the distance to which the hedge is presently set back from the road is such that the majority of the hedge can be retained and would not be required to be removed to provide visibility splays,. In addition, there is sufficient width to allow for the length of Maes Pennant Road along the site frontage to be improved to a width of 5.5 metres and provide for a pedestrian footway to the north western edge of the road. The proposals also seek to provide a footpath link into the site to the south of the wooded copse at a proposed crossing point on Maes Pennant Road. This allows linkages into the existing footpath network and improves access to the public transport network.

7.18 Representations have been made that the proposals will give rise to a level of traffic generation which would adversely affect the safety of existing highway users upon a highway network which is inadequate to cater for the volume of traffic envisaged to arise. The Head of Assets and Transportation has considered the proposals and the supporting information and concludes the proposals would not give rise to a volume of traffic which would detrimentally affect highway safety and therefore, has no objections subject to the specified S.106 contribution and conditions.

7.19 It should be noted that Footpath 106b lies adjacent to the northern edge of the site and proposals have been developed to connect into this footpath from the proposed recreation space, thereby securing improved connectivity with the remainder of the community

7.20 Land Contamination

The site occupies an area of land which, historically was utilised in connection with coal mining activities in the locality. The application was therefore accompanied by a Phase 1 land contamination assessment which identifies the principal likely contaminants upon the site to those associated with coal mining. The report concludes that a further intrusive survey be undertaken, before the commencement of development, which identifies the location, type and scale of any contamination and from this data, identifies the appropriate remediation strategies to address this issue.

7.21 This report has been considered by both the Head of Public Protection

and The Coal Authority, both of whom are satisfied that the report recommendations are appropriate and accordingly a condition requiring the same is proposed to be imposed.

7.22 Landscape, Ecology and Trees

The site abuts an area of designated Green Space and whilst this is not part of the application site, it is respected and incorporated in so much as the proposed on site play facility is located abutting the area, providing a wooded backdrop to this facility. The application is supported by ecological and arboricultural assessments both of which identify issues of interest, together with measures to ensure the proposed development would not adversely affect these issues.

7.23 In respect of trees, the report identifies that that all trees of note within the locality are located outside of the site boundaries. However, it notes the potential crown spread of certain trees within the green space into the play area and proposed footpath extension. In this respect, I propose to condition the tree protection measures identified and include provisions for a 'no-dig' construction where hard standings are proposed within proposed exclusion zones around these important trees.

7.24 The only ecological interest of relevance to the site relates to Badgers and their use of the site for foraging. Provision is made for a corridor to allow connectivity of badger populations between the site and areas further to the west. I propose to condition its provision in accordance with precise details of its construction and management to be agreed.

7.25 Viability

The application has been the subject of lengthy and detailed negotiations in relation to the viability of the site in terms of its ability to yield the level of planning gains identified in accordance with the provisions of the UDP. These matters relate to affordable housing, educational contributions and recreation provision.

7.26 Studies undertaken by the developer have been the subject of independent assessment by The District Valuer (DV). This assessment concludes that the viability assessments are accurate and do indeed indicate that, as a combination of the currently depressed economic situation and the abnormalities associated with the development of this site (land contamination assessments and grouting), the profits arising from this scheme would not reasonably allow for the provisions of the identified issues in strict accordance with the requirements of UDP policies in this respect.

7.27 The evidence considered by the DV suggests that the development would not be viable were the usual payments under a section 106 agreement to be strictly required. The Council is entitled to take into account, in such circumstances, the likelihood of the proposed development being carried out. In doing so, the Council must

consider what would be the planning consequences if the scheme did not proceed because it was not viable.

- 7.28 In this particular case, the consequences relate to the fact that the site is an allocated site for the purposes of residential development within the Flintshire Unitary Development Plan (UDP). As such, the anticipated yield of dwellings arising from the development of this site forms a part of the strategic overall housing figure planned to be delivered through the UDP. If this site is not delivered, there would be a consequent impact upon the levels of housing identified to be required to be delivered through the plan.
- 7.29 This assessment identifies that a sum below that which would be considered acceptable would be likely to result. In the view of the DV, the sum offered of £278,000 was reasonable. The applicant offers this sum for planning contributions, payable in 2 instalments.
- 7.30 However, in recognising that the assessment outcomes arise as a consequence of current economic circumstances, I consider that provision ought to be made to allow for the re-assessment of the viability of the proposed development if the site were to not be commenced swiftly following approval of Reserved Matters.
- 7.31 I consider that the most appropriate and pragmatic means via which this provision for re-assessment can be secured would be for this outline permission to be granted with a time limit upon commencement of 3 years, instead of the normal 5 years, of the date of the outline planning permission or within 1 year of the date of the last approval of Reserved Matters. Taking into account the fact that this would be an Outline planning permission, with the need for Reserved Matters to be agreed, this would also necessitate a variation to the normal period for the submission of Reserved Matters from 3 years to 2 years.
- 7.32 I consider that this exception to the normally imposed conditions will ensure that, in the event that development has not commenced within that time, an opportunity to re-assess the viability of the development will be afforded if and when an application to renew the permission is made.
- 7.33 Recreation and Public Open Space Provision
In response to consultation, the Head of the Play Unit has advised a willingness to split the requirements normally associated with a development of this scale in such a manner as one third of the requirement is met by an on site provision, and the remainder is met via a commuted sum towards other provision, off site, within the locality.
- 7.34 To this end, a doorstep facility of not less than 1000m² is required upon the site. The nature of landscaping works and equipment is to be

agreed via a condition. This condition will also require the details of the management and maintenance of the facility to be agreed prior to the occupation of any of the dwellings hereby approved.

7.35 In addition, a commuted sum of £52,800 is to be paid to the Council for use in upgrading existing facilities within Mostyn community.

7.36 Education Contributions

Consultation with the Director of Lifelong Learning in respect of the likely impact of the proposed development upon educational facilities within the locality has identified that the 18 primary aged pupils likely to arise from the development would result in an adverse impact upon the educational facilities at the nearby Ysgol Bryn Pennant. No adverse impact at secondary school level is anticipated and therefore the request for contributions towards satisfying the educational needs at the school to provide for the additional pupils is restricted to primary school level only.

7.37 Accordingly, the sum of £63,000 is sought for use in providing additional capacity at Ysgol Bryn Pennant and will be provided as set out in Section 2 of this report.

7.38 Members should note that discussions in respect of the level of contribution sought were undertaken, and assessment of the viability case undertaken, at a time pre-dating the adoption by the Council of Supplementary Planning Guidance Document No. 23 – Developer Contributions to Education (SPG). This document was adopted by the Council on 17th July 2012.

7.39 Were the provisions of the SPG applied to consideration of this application now, I am advised that Ysgol Bryn Pennant presently has 108 pupils on the roll and a capacity of 111 pupils. Consequently the school has only 2.7%. Therefore the formula identified within the SPG, applying the anticipated pupil numbers of 18 would indicate that a sum of £220,626 would be required under this guidance.

7.40 However, for the reasons already set out in this report in respect of the viability, the sum sought (£63000) is that initially discussed and used as the basis for assessment.

7.41 For the avoidance of doubt, there is no secondary school contribution sought as the secondary school serving the catchment area is Holywell High School, which presently has 50% surplus places and therefore the capacity triggers of the SPG are not triggered.

7.42 Affordable Housing

The Head of Housing Strategy had initially outlined 2 options as being an appropriate response to the requirements of Policy HSG10. These were the provision of 21 affordable units on the site via a shared equity scheme or, the gifting of 6 dwelling units to the Council for the

Council to make available to applicants with proven local connections via its affordable home ownership register. This option also included the payment of a commuted sum of £51,000. Both options have a total value of £797,000.

- 7.43 For the reasons given in Paragraph 7.25 – 7.29 inclusive, the scheme does not have sufficient residual value to allow for contributions to this extent.
- 7.44 Following discussions with the Head of Housing Strategy, it is considered that, by virtue of the high level of housing available within Mostyn for social rented and provision via the Council Housing waiting lists, together with the fact that market prices for Mostyn are lower than comparable properties elsewhere, the best way to address affordability requirements having regard to the particular constraints of this site, would be to utilise the residual sum from the contribution offered to facilitate access to existing affordable home provisions.
- 7.45 Therefore I am proposing the residual £162,200 is made available for use in this fashion in 2 instalments as set out in Section of the report.

8.00 CONCLUSION

- 8.01 The development of this site for residential use has been accepted in principle through the allocation of the site in the UDP. The negotiations in relation to the design and layout of the site have resulted in a solution which provides for a scheme which is considered acceptable. The issues of land contamination and site drainage can be dealt with by the imposition of appropriate conditions.
- 8.02 Appropriate levels of affordable housing, education contribution and open space provision have been identified having regard to the proven viability issues presented with the development of this site and therefore, appropriate contributions associated with these matters are proposed to be secured via an appropriately worded legal agreement.
- 8.03 In considering this planning application the Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.

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