

FLINTSHIRE COUNTY COUNCIL

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

DATE: **20TH FEBRUARY 2013**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **APPEAL BY MR. G. AMES AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE ERECTION OF 10NO. 2 BEDROOMED APARTMENTS AT 'RISBORO', NANT MAWR ROAD, BUCKLEY, FLINTSHIRE.**

1.00 APPLICATION NUMBER

1.01 **049451**

2.00 APPLICANT

2.01 **MR. G. AMES**

3.00 SITE

3.01 **'RISBORO', NANT MAWR ROAD, BUCKLEY, FLINTSHIRE.**

4.00 APPLICATION VALID DATE

4.01 **13TH FEBRUARY 2012**

5.00 PURPOSE OF REPORT

5.01 To inform Members of the appeal decision, following the refusal of planning permission by Committee on 22nd June 2012 for the erection of 10 No. two bedroom apartments at 'Risboro', Nant Mawr Road, Buckley, Flintshire. The appeal was considered by way of an informal hearing held on the 11th December 2012 and was ALLOWED.

5.02 During the course of the hearing, the appellant submitted an application for costs, which the Inspector REFUSED.

6.00 REPORT

6.01 The Inspector considered the main issues to be the impact of the proposals upon the living conditions of the occupiers of nearby dwellings having particular regard to loss of privacy and overbearing

impact, the character and appearance of the area of Nant Mawr Road and the area generally, and whether the proposal would create a precedent for further similar forms of development in the area which would result in harm.

6.02 Loss of Privacy

In respect of the issue of the perceived loss of privacy arising from the proposals, the Inspector noted that the present configuration of 'Risboro' and adjacent dwellings was such that clear and unobstructed views into the private areas of adjacent properties existed. He noted however that the proposals would result in the apartment building being located a greater distance away from the adjacent properties and was satisfied that any overlooking still occasioned following the development was acceptable and represented an improvement upon the current situation.

6.03 He also noted that there was no overlooking of 1 Dawn Close and that any overlooking from the stairway landings could be addressed via the imposition of conditions requiring obscure glazing. He concluded therefore, that the proposals would not result in a loss of privacy.

6.04 Overbearing Impact

In examining of the issue of perceived overbearing impact, the Inspector considered that the proposals represented a significant improvement upon the current arrangement. He noted that adequate levels of separation were achieved. He also noted that whilst a bigger building in terms of footprint, the proposed building would be no higher than the current building and, when coupled with its proposed positioning, actually reduced the level of impact upon adjacent properties. He therefore concluded the proposals would not result in unacceptable harm to the living conditions of nearby residents.

6.05 Character and Appearance

Turning to the issue of the impact of the proposals upon the character and appearance of the area, the Inspector noted the mixed character of residential built form in the area and noted that acceptable positioning, both within the plot and relative to surrounding developments, was such that the proposals did not unacceptably detract from the character or appearance of the area. In coming to this view, he noted specifically, the existence of a similar form of development at Llys-y-Nant, Nant Mawr Road, Buckley and noted that this had not adversely affected the character or appearance of the area.

6.06 He also dismissed claims that the proposals were sited too prominently in the street scene, were excessive by virtue of height or created a terracing effect within the street scene.

6.07 Precedent

The Inspector noted the concerns expressed that the proposals would establish a precedent for the demolition of large houses in spacious grounds for the purpose of redevelopment of small housing developments. However, he noted in dismissing the claim that any such application submitted would have to be considered upon its own merits, and as with the appeal proposals, satisfy the applicable planning policy requirements.

6.08 Other Matters

The Inspector considered representations made at the Hearing in relation to adverse amenity impacts arising from vehicle noise and headlights. He concluded that the proposals would not give rise to such impacts as he considered the proposed screen fencing and vegetation would manage these impacts. He also noted that the Head of Public Protection had not raised objection upon this basis.

6.09 The contention was put to the Inspector that proposals were an over dense over development of the site. The Inspector considered the advice contained within the UDP both in relation to density of development of dwellings but also the need to use land as efficiently as possible.

6.10 He noted that these figures applied to conventional housing, he considered it was inevitable in considering apartment proposals that the density would be higher as higher numbers of dwellings can be achieved. He considered the salient point to be whether a density of 83 dwellings per hectare caused a material harm, and was satisfied upon the basis of the evidence before him, that it did not.

6.11 Concerns were voiced in relation to adverse impacts upon highway safety occasioned by access position, visibility and insufficient parking. He noted that The Local Highway Authority had raised no objection and considered that no evidence had been placed before him to contradict that professional view. He therefore concluded that the proposals would not give rise to adverse impacts upon highway safety.

6.12 COSTS

The appellant made an application for costs on the basis that the Local Planning Authority had acted unreasonably in not granting planning permission and had failed to provide evidence adequate to support its decision.

6.13 The Inspector noted the Rebuttal of the costs application and concurred with the substance of the rebuttal. He noted that Circular 23/93 advised that costs were only to be applied where the actions of one party had caused the other to incur unnecessary or wasted expense in the appeal process. He considered that the stance adopted by the Council in relation to the application, whilst not ultimately agreeing with it in his determination, represented a detailed

and thorough evaluation of the site, proposals and its perceived impact upon the area. He noted that the Council's case was presented by a highly qualified agent and that Councillors were in attendance at the hearing and gave evidence to the same effect. He therefore concluded that this amounted to substantial evidence to support the stance adopted.

- 6.14 The Inspector also noted that the decision represented the exercise of professional judgement and on the basis of this judgement, the view was entitled to be drawn that the proposal was unacceptable. He concluded that the differences between the parties related to a differing interpretation of policy rather than any lack of attention on the part of the Local Planning Authority.
- 6.15 The Inspector noted that the application had been the subject of significant local opposition. He noted however that there was no evidence to suggest that unreasonable weight had been attached to this local representation by the Council in determining the application and concluded that the application had been properly determined upon its merits.
- 6.16 The Inspector therefore concluded that unreasonable behaviour, as defined within the circular, could not be demonstrated and **DISMISSED** the application for costs.

7.00 CONCLUSION

- 7.01 The Inspector concluded that the proposal was not unacceptable in the terms presented and was not therefore contrary to the applicable policies and therefore the appeal was **ALLOWED**.

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