

**FLINTSHIRE COUNTY COUNCIL**

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

**DATE:** **24<sup>TH</sup> JULY 2013**

**REPORT BY:** **HEAD OF PLANNING**

**SUBJECT:** **APPEALS BY MR. SIMON PARKER AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR 049629 – EXTENSIONS & ALTERATIONS AND 049630 – ERECTION OF A REPLACEMENT DWELLING AT GELLI FARM, GELLI ROAD, PEN-YR-ALLT, HOLYWELL**

**1.00 APPLICATION NUMBER**

1.01 049629 & 049630

**2.00 APPLICANT**

2.01 Mr. Simon Parker

**3.00 SITE**

3.01 Gelli Farm, Gelli Road, Pen-yr Allt, Holywell.

**4.00 APPLICATION VALID DATE**

4.01 05.04.2012

**5.00 PURPOSE OF REPORT**

5.01 To inform Members of the appeal decisions, following refusal of planning permission at Committee on two applications, one for the demolition and replacement of the existing dwelling, which is a Building of Local Interest (BLI) and one for the retention and extension and alteration of the existing dwelling at Gelli Farm, Pen –yr-Allt, Holywell. The appeals were heard at a joint hearing and both were DISMISSED.

**6.00 REPORT**

- 6.01 The Inspector considered the main issue in relation to the retention of the existing dwelling and its extension and alteration to be the effect of the proposal on the existing farmhouse and on the character and appearance of its rural surroundings.

On the appeal in relation to the demolition and replacement dwelling, the Inspector considered there to be two main issues, first the effect of the proposals on the character and appearance of the rural surroundings, and second, whether the structural condition of the existing farmhouse is so poor that its demolition would be justified.

6.02 Background

The Inspector agreed with the Council that the most important considerations in relation to both proposals were the scale and the massing in relation to what existed.

The Inspector appreciated that the Appellant did not consider that Gelli farmhouse is worthy of being designated by the Council as a BLI, and had sought to have this overturned by way of judicial review, however, the judgement in that case was that the powers of the Court did not have the powers to review the matter since the BLI status is not a statutory designation.

The judgement did however indicate that in any section 78 appeal, that the Appellant would be able to deal with the question as to whether or not the farmhouse is of significant architectural or historical interest, and accordingly the Inspector, therefore paid particular attention to this matter.

The Inspector noted the present state of the building's poor repair and its boarding up, nevertheless, because the original parts of the building were probably built some 170 years ago, even without any particular historical connections, he considered that the original farmhouse and attached shippon are a good example of a basically unaltered, early C19 vernacular farm house and cow shed set in an agricultural landscape. From this he considered that as its designation as a BLI indicates, the farmhouse and cowshed are worthy of protection for their local historical interest.

6.03 Appeal in Relation to Retention, Extension and Alterations

The Inspector noted the reasons for refusal in relation to this proposal, and whilst he noted the differences in floor space calculations between the calculations of the Council and the Appellant, and whilst he considered that the proposals would not be out of scale with the existing dwelling in terms of the amount of floor space, nevertheless, he considered that the 2 storey part of the proposed extensions would be visually out of scale with the existing farm house. This was considered to be sufficient reason for the Inspector to conclude that

the proposals would not be in accordance with policy HSG12.

In relation to Policy HE4, the Inspector concluded that the south elevation of the proposed extension would not be subsidiary to the present principal elevation and therefore, would adversely affect the basic architectural form of this unpretentious rural farmhouse, which is considered worthy of its BLI status. As such it was considered that the proposal would not accord with Policy HE4.

6.04 Appeal in Relation to Demolition and Replacement Dwelling

In this case Policy HE4 indicates that demolition of a BLI will only be permitted where the building is structurally unsound and can not be repaired at a reasonable cost, and that the design of the proposed replacement building should match, or be better than, that of the building to be demolished.

The Inspector considered that the whilst the proposal would have a similar front elevation to that of the existing house , however , since most of the proposed south wing would be 2 storey, he did not consider that the design of the proposed replacement building would match, let alone be better than , that of the principal elevation of the existing farmhouse.

Much of this south elevation would be open to public views from the adjoining highways, as the depth of the 2 storey part of the replacement dwelling would be appreciably deeper than that of the present farmhouse, he considered that the proposed south gable would appear materially more bulky than the existing south gable.

He considered that the replacement dwelling would have a harmful effect on the BLI and also on the long established character and appearance of its rural surroundings and was therefore contrary to Policies HE4 and HSG6.

The Inspector did not consider it acceptable to demolish the existing dwelling, (with the exception of the unattractive, relatively modern, flat roofed rear extension). He considered that the existing dwelling could be repaired at a reasonable cost and that the structural condition of the existing farmhouse was not so poor as to justify its demolition. Whilst he noted that the proposed replacement would probably be more energy efficient than the existing farmhouse he did not consider that this factor outweighed the above considerations.

6.05 Other Material Considerations

The Inspector referred to 2 other material considerations in relation to these appeals, namely the existence of a planning permission already granted by the Council for the extension and alteration of the existing dwelling and secondly the personal circumstances of the Appellant in relation to his severely disabled brother in law.

In relation to the permission already granted the Inspector noted that the 2 storey element of the south elevation would be substantially less wide than the proposals in either of the appeals. As such the visual impact of the permitted scheme on the character and appearance of both the BLI and surrounding area would be materially less than that of the proposals, accordingly, in his view he considered that the permitted proposals did not justify allowing either of the appeals.

In relation to the personal circumstances cited in relation to the appellant's brother in law, the Inspector noted that the permitted scheme would provide a ground floor bedroom and adjoining bathroom as well as a carer's bedroom in a largely self-contained part of the rear wing of the permitted extended dwelling.

#### Costs Application

During the appeals the Appellant submitted an application for costs against the Council and in considering this the Inspector considered that in both appeals the reasons for refusal were sufficiently complete, precise, specific and relevant to their respective applications. Furthermore he considered that the Council had provided sufficient substantial evidence to justify the refusals of permission.

- 6.06 The Inspector considered that the Council had attached no more than minimal weight to the special personal circumstances advanced in respect of the Appellant's seriously disabled brother in law. However, since personal circumstances hardly ever override sound land use planning objections, he considered that this amounted to unreasonable behaviour.

The Inspector did however take issue with the fact that the percentage increase in volume calculated by officers and reported to Committee was in his view wrong. This disagreement between the appellant and the Council was essentially based on whether the rear detached range of out buildings should be included in the floorspace of the original dwelling for the purposes calculating the increase in volume. Having taken the appellant's view he decided that the Council's stance amounts to unreasonable behaviour. The Inspector concluded that such unreasonable conduct must have caused the Appellant to incur expense unnecessarily and he awarded partial costs against the Council on these grounds only.

NOTE: It should be noted that the officers calculated the increased volume in both proposals at over 100% and the report to committee made it clear that this included the floorspace of the original outbuildings as additional. The Appellant's case was that the outbuildings should be included in the original floorspace and thus discounted against the increased floorspace. giving a percentage increase in the region of 30%. As stated above the Inspector agreed with the appellant but it is disappointing that he considered that the Council had made "a serious error" rather than this being a difference

in interpretation. However, the only way to challenge this would be through judicial review and as the appeal decisions are favourable this action would not be warranted.

## **7.00 CONCLUSION**

7.01 The Inspector was mindful of what had been permitted by the Council by way of extension and alteration to the property and he considered that the two proposals subject of the appeal were not acceptable in terms of the relevant policies because of the impact on the scale and character. None of the other material considerations, either individually or together, were of sufficient weight to override the sound and clear-cut development plan objections which he found to the proposals in both the appeals.

The Inspector took in to account all the other matters raised by the Appellant, including the distance of the listed building at Gelli Fawr from the appeal site, together with the other appeal decisions and case law the Appellant referred to, he DISMISSED both appeals, but ALLOWED an award of costs in part, with regard to the erroneous calculation of the amount of increase in the floor space proposed.

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