

FLINTSHIRE COUNTY COUNCIL

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

DATE: **24TH JULY 2013**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **APPEAL BY MR L R BARKER AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE RETROSPECTIVE APPLICATION FOR THE RETENTION OF A DORMER BUNGALOW AT 10 WILLOWFIELD ESTATE, PENTRE HALKYN .**

1.00 APPLICATION NUMBER

1.01 **050266**

2.00 APPLICANT

2.01 **MR L R BARKER**

3.00 SITE

3.01 **LAND ADJACENT TO 10 WILLOWFIELD, PENTRE HALKYN, HOLYWELL CH8 8HG**

4.00 APPLICATION VALID DATE

4.01 **5TH NOVEMBER 2012**

5.00 PURPOSE OF REPORT

5.01 To inform members of the appeal decision, for the above development following refusal of the application under delegated powers. the appeal was considered by way of an informal hearing and was dismissed.

6.00 REPORT

6.01 **Background**

The Inspector describes the site; outlines the relevant planning history and refers to issues relating to land ownership for the site. He remarks that the appeal site land is not within the ownership of the appellant but notes that notice was served on the owner, but the land purchase has

not been completed and is subject of the outcome of this appeal.

- 6.02 The three previous applications are detailed within the report which are summarised below:

2007 – Application for two storey dwelling refused permission on the grounds of character and appearance and living conditions in relation to usable garden space, dismissed at appeal.

2008 (044774) Application for two storey dwelling (dormer style, two bedroom). Planning permission granted and building works commenced, works suspended as development was not in accordance with approved plans.

2009 (045913) Application for two storey dwelling (part retrospective) refused permission on the grounds of useable garden space for three bedroom dwelling. Dismissed at appeal. The Inspector refers to the previous Inspectors comments that the third room at first floor level was annotated 'home office', but was capable of being used as a bedroom.

- 6.03 Planning permission 044774 granted in 2008 but lapsed on 11 June 2013. At the hearing it was agreed this permission could not be implemented unless the present dwelling house was demolished, since it had been built forward of the alignment of that previously approved. The 2008 planning permission is no longer a 'fallback' it can only be given limited weight

- 6.04 The Inspector noted that Council has also issued an enforcement notice requiring the dwelling house to be demolished and the site cleared. This notice has not been appealed against and is therefore in effect.

6.05 **Main Issue**

The Inspector considered the main issues to be the effect of the development on the character and appearance of the area, and the effect of the development on the living conditions of future occupiers of the dwelling in relation to outdoor amenity space.

6.06 **Character and Appearance**

The Inspector comments on the diversity of styles of buildings in the area and variety of scale and materials.

- 6.07 The Inspector describes the building on site to be proportionally awkward as it is not a full two storey dwelling or a single storey building. The roof appears proportionally larger than the wall plate and is higher than the previous 2009 application. The dwelling therefore appears visually unbalanced and incongruous on a corner plot which links two developments together, these being either two storey or single storey and the appeal dwelling house is an inappropriate mix of the two.

- 6.08 Having considered the appeal in light of the site history the Inspector concludes that the development harms the character and appearance of the area. He considers the development to conflict with Flintshire

Unitary Development Plan (UDP) Policies GEN1 and D2, which indicate that development should be a good standard of design and harmonise with the site and surroundings in terms of scale, design and external appearance.

6.09 Living Conditions

Referring to the Council's Local Planning Guidance (LPG) Note 2, the Inspector comments that this document has not been through public consultation and therefore gives it limited weight.

6.10 The Inspector notes that the LPG indicates that private garden space is important for quiet enjoyment and for a three bedroom dwelling it requires 70 square metres. In response to the Appellant's contention that the dwelling only has two bedrooms and a store, the Inspector states that *"Although very small, it is not so confined or restricted by headroom as to prevent it from being used as a bedroom."*

6.11 The Inspector refers to the Appellant's offer to acquire the land at the side, which forms part of the appeal site, and undertake to lower the levels and to build new retaining wall structures. At the hearing, the Appellant and the Council agreed that conditions could be imposed to ensure that this would take place should the appeal be allowed. In the Inspectors view the outcome of such engineering works would then provide sufficient private amenity space in accordance with the Council's published guidance, and would overcome the concern in relation to the issue of living conditions.

6.12 As such the Inspector does not consider the development conflicts with UPD policies in relation to the adequacy of the provision of amenity space. In this regard the Inspector concludes that the development would not harm the living conditions of future occupiers of the dwelling in terms of outdoor amenity space.

6.13 Costs

An application for a full award of costs was submitted in writing at the hearing, based on the contention that the Council was unreasonable in refusing planning permission and failed to show good reason why it was refused. The Council argued that the development was retrospective and the previous appeal decisions have been in the Council's favour. The dwelling could be used as a three bedroom dwelling without the need for further planning and as such it was reasonable to consider the application in this way.

6.14 The Inspector concluded that the development was harmful to the character and appearance of the area and does not consider that the Council had behaved unreasonably in refusing planning permission. He did not consider it to be an unreasonable conclusion that the third room could be used as bedroom for the purposes of calculating the requirements of outdoor amenity space. As such unreasonable behaviour resulting in unnecessary expense had not been

demonstrated, costs were therefore unjustified. The award for costs was refused.

7.00 CONCLUSION

7.01 The Inspector concluded that although there was potentially a favourable conclusion for the Appellant on living conditions this did not outweigh concerns over character and appearance. This ground alone is sufficient to dismiss the appeal. He considered all other matters raised, including the personal need to reside close to the Appellant's elderly parent but concluded that the appeal should be dismissed.

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