

FLINTSHIRE COUNTY COUNCIL

REPORT TO: PLANNING & DEVELOPMENT CONTROL COMMITTEE

DATE: WEDNESDAY, 4 SEPTEMBER 2013

REPORT BY: HEAD OF PLANNING

SUBJECT: GENERAL MATTERS - OUTLINE APPLICATION - FOR THE DEMOLITION OF 'SUNNYSIDE' AND 66A MOLD ROAD AND THE ERECTION OF 58 HOUSES INCLUDING DETAILS OF ACCESS, APPEARANCE, LAYOUT AND SCALE AT LAND REAR OF 66A MOLD ROAD, MYNYDD ISA, MOLD.

1.00 APPLICATION NUMBER

1.01 048042

2.00 APPLICANT

2.01 Mulhill Estates LLP

3.00 SITE

3.01 Land Rear of 66A Mold Road,
Mynydd Isa,
Near Mold.

4.00 APPLICATION VALID DATE

4.01 18th November 2010.

5.00 PURPOSE OF REPORT

5.01 Following the resolution at the 24th July meeting of the Planning & Development Control Committee to refuse the above planning application, to seek guidance regarding the reasons for refusal to be attached to the decision.

6.00 REPORT

6.01 Members are referred to the minutes of the previous meeting, where under Item 40 it will be noted that it was resolved that planning

application Ref: 048042 was to be refused for reasons referring to: lack of affordable housing, unsatisfactory access proposals, inadequate ecological mitigation, inadequate play and open space provision, flood and drainage issues, under provision of car parking and soil contamination.

- 6.02 Where a decision is taken at Committee against officer recommendation on any particular application, it is the role of officers to draft the precise terms of that decision, in this instance the reasons for refusal of planning permission. It is therefore suggested that Members consider this further report on the drafting of these reasons and I address each of the 'heads' contained within the resolution, in turn.
- 6.03 Lack of Affordable Housing
The Head of Housing Strategy has identified that 34 applicants on the Council's waiting list have indicated Mynydd Isa as their first choice area and have full local connection points together with 36 applicants (registered for Mold and surrounding area) on the Affordable Home Ownership Register.
- 6.04 As a result of the above housing need and in strict accordance with Policy HSG10 of the Flintshire Unitary Development Plan it was also advised that a commuted sum of £674,526 in lieu of 30% on site affordable provision be provided.
- 6.05 However, it was explained to Members at the meeting that due to a combination of the currently depressed economic situation and the abnormalities associated with the development (land contamination assessments, land drainage), the profits arising from this scheme would not reasonably allow for the above full affordable housing provision to be met.
- 6.06 As the site is, however, allocated within the Flintshire Unitary Development Plan and to bring it forward to meet the housing needs of the County, the applicants were willing to provide a total payment of £212,000 for all the identified community benefits.
- 6.07 Given this, together with the existing mix of housing in terms of variety of types, size and tenure and their affordability in Mynydd Isa it was considered that the sum of £56,170 could be provided in lieu of the 30% on site affordable provision policy compliance.
- 6.08 Despite the above advice being given, Members at the meeting questioned the abnormal costs referred to in the viability assessment in relation to drainage and contamination in building out the scheme. It was considered that this subsequently affected the viability of the scheme and the ability of the developer to provide the requirements of the Head of Housing Strategy in terms of affordable housing.

- 6.09 **REASON 1 – The Council considers the proposals as submitted do not provide for 30% affordable housing within the scheme, thereby restricting the community’s accessibility to the facilities and thereby contrary to Policy HSG10 of the Flintshire Unitary Development Plan and Local Planning Guidance Note 9 ‘Affordable Housing’.**
- 6.10 Unsatisfactory Access Proposals
Members will be aware that in 2011, the Council commissioned independent consultants (Capita Symonds) to review the highway/traffic evidence relating to this application. Four site access points including this Mold Road priority junction were considered.
- 6.11 This assessment concluded that direct access onto Mold Road, resulting in decreased traffic through residential streets and the difficulties and cost associated with providing DDA compliant infrastructure for the Clwyd Avenue Option (due to the significant difficulties in levels) meant that this Mold Road priority junction was the preferred option. However, this was not without issues in relation to the relocation of the bus infrastructure and changing the existing residential access arrangements.
- 6.12 The bus pole at the existing stop will be moved very slightly eastwards from the new site access. This was considered to reduce buses obstructing visibility along A549 Mold Road from side roads and avoid distributing the operation of the junctions. The bus stop would fall within the eastern visibility sightline of the proposed access to the development. Consultation with the Council’s Transportation Section indicated that this was acceptable.
- 6.13 The assessment found that the proposed junction arrangements may lead to confusion with vehicle “signalling” intentions due to the proximity of the junctions to the proposed site access. However, there were low levels of traffic obscured using the various service road accesses along Mold Road. Therefore, the proximity of the site access to the existing/revised service road accesses was perceived to be a minor operational issue. This was confirmed by the Head of Assets & Transportation. In addition, the applicants submitted additional information showing the manoeuvrability of vehicles in and out of the various access points which were also acceptable to the Head of Highways & Transportation.
- 6.14 Despite the above advice from both the Council’s independent consultants and the Head of Assets & Transportation, who considered that the issues in terms of the relocation of the bus infrastructure and changing the existing residential access arrangements were minor and that they have subsequently been resolved, Members at the meeting considered that they were significant and had a detrimental impact upon both highway and pedestrian safety. These must therefore form the reason for refusal and must be sustained at appeal.

6.15 **Reason 2 – The proposed development would be likely to result in an increase in the volume of traffic which is likely to include the conflict in traffic movements close to existing junctions to the detriment of highway safety and contrary to Policy GEN1 and Policy AC13 of the Flintshire Unitary Development Plan.**

6.16 Inadequate Ecological Mitigation

The site is not located within or adjacent to the boundaries of any statutory sites of ecological, geological and/or geomorphologic interest. However, it is located within 1.5 kms of the Buckley Claypits and Commons Site of Special Scientific Interest (SSI) and Deeside and Buckley Newt Sites Special Area of Conservation (SAC). The proposal is not likely to directly affect either of these sites. However, Great Crested Newts (GCN) have been recorded within 500 m of the site and the site itself represents good terrestrial habitat. As a result therefore it is normal for large developments such as this to set aside or purchase additional land in compensation to create an alternative habitat for GCN. The applicant initially proposed to create approximately 0.4 ha of habitat for GCN off site to the site. However, due to the protracted nature in the determination of the application, the landowner withdrew the offer to sell the land to the developer. Instead, a commuted sum was offered by the developer (out of the total £212,000) of £850 per dwelling to go to the Building Wildlife Trust who would allocate money towards finding alternative GCN compensatory land or improvements to existing GCN habitats within the Buckley and Deeside locality. This is to offset for the absence of actual mitigation land not provided as part of the development. This was accepted by both the Council's Ecologist and Natural Resources Wales.

It was considered that both the proposed commuted sum payment for off site mitigation land and the reasonable avoidance measures of fencing and trapping etc of any GCN whilst/before development takes place on the site would compensate for any adverse effects caused during construction works and by the loss of the development land. The proposed development and mitigation proposals were assessed by both the Council's Ecologist and Natural Resources Wales and it is considered that the development would not likely to have a significant effect on protected species. It was proposed to condition the implementation of a suitable scheme of reasonable avoidance measures. Therefore this application satisfied the three tests required by the Habitats Directive. The development of the site would bring about environmental benefits in the form of secured long term monies to be used for the management of land elsewhere for ecological purposes.

6.17 Given that both Natural Resources Wales and the Council's Ecologist find the above proposed mitigation measures acceptable, it is considered that inadequate ecological mitigation as a reason for

refusal would be very difficult to sustain. It is therefore recommended that this is not included as a reason for refusal.

6.18 Inadequate Play & Open Space Provision

Applying the standards in both Policy ST5 of the Flintshire Unitary Development Plan and in the Local Planning Guidance Note 13 – Open Space Requirements, the developer was requested by the Open Spaces Manager to provide 3,285 m² of on site public open space and this to be also fully equipped to an agreed specification or provide a payment of £63,800 in lieu of on site open space towards the provision/improvement of existing open space within the locality.

6.19 The developer is providing an amenity space of 430 m² towards the south west corner of the site and a play area of 1,010 m² within the middle of the site towards the eastern boundary of the site. This larger area will be fully equipped, costing approximately £45,000 with this sum being provided out of the developer's total contribution of £212,000.

6.20 Members will be aware that the full requirements listed above cannot be provided due to the issue of non viability of the development. To meet the full requirements would make the scheme even more non viable.

6.21 Despite the above advice being given, Members at the meeting questioned the abnormal costs referred to in the viability assessment in relation to drainage and contamination in building out the scheme. It was considered that this subsequently affected the viability of the scheme and the ability of the developer to provide the requirements of the Open Spaces Manager in terms of public open space.

6.22 **REASON 3 – The Council considers the proposals as submitted do not make adequate provision for public open space, thereby restricting the community's accessibility to the facilities and thereby contrary to Policy GEN1 and Policy SR5 of the Flintshire Unitary Development Plan and Local Planning Guidance Note 13 'Open Space Requirements'.**

6.23 Flood & Drainage Issues

Members will be aware that Environment Agency Wales (now Natural Resources Wales) were consulted upon the possible risks of flooding by the development. They advised that the site lay outside of any flood zone and had no record of any historical flooding problems or evidence of such.

6.24 Therefore given the site was not within their flood zone maps and without sufficient evidence of previous flooding in the area, they did not consider a Flood Consequence Assessment for the application would be justified. However, they did advise that a scheme for the comprehensive and integrated drainage of the site could be further

submitted to and approved by the Local Planning Authority. This would be dealt with by way of a condition placed upon any planning permission granted.

6.25 Dwr Cymru/Welsh Water advised also on the drainage aspect of the scheme. Their only concerns were due to the foul drainage of the scheme overloading the existing Waste Water Treatment Works and advised that a Grampian condition could be placed upon any planning permission granted restricting any occupation of the dwellings until April 2015 when their programme of system improvements were planned and expected to be completed.

6.26 Given the above Technical Advice from both Natural Resources Wales and Dwr Cymru/Welsh Water and that the suggested planning conditions could overcome any drainage issues, it is considered that any flood and drainage reasons for refusal would be very difficult to sustain at any subsequent appeal. It is therefore recommended that this is not included as a reason for refusal.

6.27 Under Provision of Car Parking

Car parking within the site will total 116 spaces. This level is below the Council's maximum car parking standards of 150 spaces. To address this shortfall, the applicant's transport consultants provided a travel plan in order to encourage sustainable travel to and from the site via the use of walking, cycling, public transport and car sharing thereby reducing the parking demand generated by the development and support the reduced parking provision within the site. To promote, monitor and evaluate the travel plan, the applicants were willing make a payment of £100 per dwelling to the travel plan. This payment was to be taken out of the total £212,000 commuted sum payment. The above travel plan together with its promotion, monitoring and evaluation was deemed acceptable by the Head of Assets & Transportation and considered to overcome the lack of car parking on the site and would not lead to parking on the highway to the detriment of highway or pedestrian safety.

6.28 Given the above advice from the Head of Assets & Transportation, that the shortfall in car parking upon the site can be overcome by the implementation of an agreed travel plan, it is considered that this reason would be very difficult to sustain on any subsequent appeal. It is therefore recommended that this is not included as a reason for refusal.

6.29 Soil Contamination

All the appropriate assessments have been submitted and examined by the Head of Public Protection which have found that the site is affected by contamination as a result of unacceptable levels of gases and other substances within soils present at the site. These

assessments identify remedial measures will be required to be constructed within the buildings (to address gas contamination) and in the garden and soft landscaped areas of the site.

- 6.30 The Head of Public Protection has advised that the developer will need to provide and verify the appropriate level of gas protection measures in the buildings and associated structures. A remediation strategy, to explain exactly from this will be achieved can be dealt with by a planning condition upon any planning permission being granted.
- 6.31 Given the above advice from the Head of Public Protection, it is considered that a contamination soil reason for refusal would be very difficult to sustain at an appeal. It is therefore recommended that this also is not included as a reason for refusal.

7.00 RECOMMENDATIONS

- 7.01
1. That the wording of the draft reasons for refusal relating to lack of affordable housing, unsatisfactory access proposals and inadequate play and open space provision in relation to application 048042 are considered by Members to determine whether this accurately reflects the resolution at Planning & Development Control Committee on 24th July 2013.
 2. That reasons relating to inadequate ecological mitigation, flood and drainage issues, under provision of car parking and soil contamination are not included in the decision on the application.

Should Members resolve not to accept the second recommendation, that the Head of Planning drafts additional reasons based on these issues.

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