

**FLINTSHIRE COUNTY COUNCIL**

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

**DATE:** **9<sup>TH</sup> OCTOBER 2013**

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

**SUBJECT:** **VARIATION OF CONDITION 11 ATTACHED TO PLANNING PERMISSION REF: 048892 FOR RESIDENTIAL DEVELOPMENT OF LAND AT THE FORMER WHITE LION PUBLIC HOUSE, CHESTER ROAD, PENYMYNYDD**

**APPLICATION NUMBER:** **051056**

**APPLICANT:** **REDROW HOMES NW LTD**

**SITE:** **LAND AT FORMER WHITE LION PUB, CHESTER ROAD, PENYMYNYDD, FLINTSHIRE**

**APPLICATION VALID DATE:** **7<sup>TH</sup> AUGUST 2013**

**LOCAL MEMBERS:** **COUNCILLOR MRS. C.HINDS**  
**COUNCILLOR D. T. M. WILLIAMS**

**TOWN/COMMUNITY COUNCIL:** **PENYFFORDD COMMUNITY COUNCIL**

**REASON FOR COMMITTEE:** **COMMITTEE DETERMINATION IS REQUESTED BY THE LOCAL MEMBER IN ACCORD WITH REASONS SET OUT IN SECTION 3 BELOW.**

**SITE VISIT:** **NO**

**1.00 SUMMARY**

1.01 This Section 73 application seeks permission to amend the wording of Condition 11 attached to Permission 048892 (as amended by Permissions Ref: 050400 and 050469) to allow the occupation of dwellings in advance of the completion of off site drainage improvements. The proposal would not result in any alteration to the appearance of the development as approved.

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

- 2.01 That planning permission 048892, as amended by permissions 050400 and 050469, be varied by the alteration of the wording of Condition 11 as set out below. In all other respects, the permission remains unaltered.

Notwithstanding the submitted details, no more than 50 dwellings hereby approved shall be permitted to be occupied before the off site foul sewerage improvement works have been completed. Confirmation of the completion of these works shall be provided in writing to the Local Planning Authority.

REASON: In the interest of protecting the integrity of the existing public sewerage system and the prevention of pollution of the environment and to comply with the requirements of Policy GEN1 of the Flintshire Unitary Development Plan.

### **3.00 CONSULTATIONS**

#### **3.01 Local Member**

##### **Councillor Mrs. C. Hinds**

Raises concerns in relation to the potential impact of occupations of dwellings in advance of the upgrade to the existing drainage system. Considers that unless Dwr Cymru can guarantee that there will not adverse impacts upon existing residents, she cannot support the application.

##### **Councillor D. T. M. Williams**

Requests Committee determination. Considers the proposed amendment to the condition is unacceptable as it increases the risk to existing residents of flooding. Has advised he is prepared to accept conditions requiring the developer to address any issues for existing residents which may arise as a consequence of any future system overload.

##### **Penyffordd Community Council**

Observes that there could be an impact upon existing residents if there are further connections prior to the system improvements being carried out.

##### **Dwr Cymru/Welsh Water**

No objection to the principle of the proposed variation. Advises that there is agreement between themselves and the developers in respect of the works and timescales for completion. (See appraisal for greater details).

### **4.00 PUBLICITY**

- 4.01 The application has been publicised by way of the posting of a site notice at the site.

4.02 At the time of writing, no responses have been received as a result of the above publicity of this application.

## **5.00 SITE HISTORY**

5.01 **445/64**  
Outline - residential development  
Refused.

**72/501**  
Outline - residential development  
Withdrawn.

**4/12/18113**  
Outline - residential development  
Withdrawn 21.7.1992

**04/038605**  
Erection of 115 dwellings and ancillary works  
Refused 18.4.2005

**11/048892**  
Erection of 88 dwellings and ancillary works  
Permitted subject to S.106 Agreement 26.10.2012

**12/050400**  
Substitution of 16 plots  
Permitted subject to S.106 Agreement 19.9.2013

**12/050469**  
Substitution of 6 plots  
Permitted subject to S.106 Agreement 19.9.2013

## **6.00 PLANNING POLICIES**

6.01 Flintshire Unitary Development Plan  
Policy GEN1 - General Requirements for Development  
Policy HSG1(51) - New Housing Development Proposals  
Policy EWP16 – Water Resources

## **7.00 PLANNING APPRAISAL**

7.01 Introduction  
This application is submitted under S.73 of the Act and seeks permission for the variation of condition 11 imposed upon the approved scheme. No other modifications are sought via this application.

7.02 The Proposal  
The proposal seeks to vary the wording and requirements of condition

11 such that it permits the occupation of the approved dwellings in advance of the completion of off site drainage system improvement works.

7.03 Drainage Implications

The development was initially approved subject to a condition in respect of drainage issues in the area which prohibited occupation of any of the dwellings until such time as a scheme of off site drainage system improvement works had been undertaken and completed. For the avoidance of doubt, that condition read;

*There shall be no beneficial use or occupation of any dwellings hereby approved until such time as the off site foul sewerage infrastructure work has been completed and such completion approved in writing by the Local Planning Authority.*

*REASON: In the interest of protecting the integrity of the existing public sewerage system and the prevention of pollution of the environment and to comply with the requirements of Policy GEN1 of the Flintshire Unitary Development Plan.*

7.04 A scheme of works pursuant to this condition had been agreed between the developer and Dwr Cymru and was twofold in nature. Firstly, it required the upgrade the foul water drain in Penymynydd Road to upgrade a length of the sewer to a larger diameter pipe and provision of an additional manhole to connect into the existing system.

This part of the upgrade works has been undertaken by Dwr Cymru.

7.05 The second part of the system upgrade requires the upgrading of a 76 metre length of sewer pipe to a 375mm diameter between manholes SJ31610001 and SJ316000970, prior to its' entry into the Penyffordd Waste Water Treatment Works.

7.06 Despite previous agreements between the developer and Dwr Cymru for this work to be done at the same time as the works in Penymynydd Road, this upgrade has yet to be undertaken. Dwr Cymru have programmed this part of the upgrade scheme to be undertaken alongside another, unrelated, piece of system upgrade works which is planned to be complete by March 31<sup>st</sup> 2014. However, I am advised that the outstanding upgrade works which are the subject of the condition are intended to be the first part of that larger scheme of works and are therefore anticipated to be completed earlier.

7.07 Accordingly, the developer is proposing that the wording of the current condition be varied such that occupations of dwellings can be undertaken prior to this outstanding element of the upgrade works being undertaken.

7.08 Consultation has been undertaken with Dwr Cymru/Welsh Water who

advise that there is no 'in principle' objection to the variation of the condition sought. However, they have assessed the current foul drainage system and have advised that provided there are no more than 50 properties connected to the system before the completion of the upgrade works, there is no risk to existing residents. This proviso has been the subject of discussions with the developer who consider that this is acceptable and would not unacceptably compromise the development of this allocated site.

7.09 Accordingly, I recommend the variation of condition as set out in Section 2 above.

## **8.00 CONCLUSION**

8.01 Notwithstanding the representations made raising concerns, I consider the views of the statutory drainage undertaker to be the view to which the greatest weight must be attached in the determination of this application. Accordingly, I consider the proposed variation of condition to be acceptable.

8.02 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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