

FLINTSHIRE COUNTY COUNCIL

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

DATE: **15TH JANUARY 2014**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **APPEAL BY MR. J WILLIAMS AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE ERECTION FOR A RESIDENTIAL DEVELOPMENT OF 4NO 2 BEDROOM APARTMENTS AND 3 NO 1 BEDROOM APARTMENTS AND ASSOCIATED COVERED PARKING AT LAND OFF RECTORS LANE, PENTRE MANCOT**

1.00 APPLICATION NUMBER

1.01 050531

2.00 APPLICANT

2.01 MR J WILLIAMS

3.00 SITE

3.01 LAND OFF RECTORS LANE, PENTRE, SANDYCROFT

4.00 APPLICATION VALID DATE

4.01 20.02.13

5.00 PURPOSE OF REPORT

5.01 To inform Members of the Inspectors decision in relation to an appeal into the refusal of planning permission for the erection of 4no 2 bedroom apartments and 3no 1 bedroom apartments at land off Rectors Lane, Mancot, Sandycroft. The application was refused by Planning and Development Control Committee on 24th July 2013 contrary to officer recommendation. The appeal was dealt with by an Informal Hearing held on 19th November 2013 and was DISMISSED.

6.00 REPORT

6.01 Issues

The Inspector considered that the main issue was the effect the

proposal would have on the amenity of occupiers of nearby dwellings with particular regard to overlooking and, on the street scene.

Principle of development

- 6.02 The Inspector noted that the appeal site is within the Pentre settlement boundary as defined in the Flintshire Unitary Development Plan [UDP]. As a category B settlement, as defined in UDP Policy HSG3, growth of 15% is permitted in the settlement. To date the growth over the relevant period has been some 0.5% and the principle of residential development on this unallocated site would be in keeping with this policy.
- 6.03 The Inspector also noted that the appeal site is within a Zone C1 area and it is common ground that the proposal satisfies the justification tests and the criteria relating to flooding consequences set out in Technical Advice Note 15 "Development and Flood Risk".
- 6.04 Living Conditions
The Inspector observed that the appeal site is adjacent to a pair of semi-detached houses to the south which front onto Church View. A terrace of two storey houses with long rear gardens is to the east of these houses. The rear garden of 7 Church View extends along the length of the south eastern boundary of the appeal site. In order to provide a flood free living environment and a safe refuge all living accommodation would be located on the first and second floors. The rear elevation would include windows serving nine bedrooms at first and second floor levels. The rear elevation of the apartments would be only some 6 metres from the common boundary with the rear garden of 7 Church View. Although there would be no direct overlooking from those windows into the habitable rooms of the existing dwellings along Church View they would have a clear view over the rear garden of No 7 and other gardens beyond.
- 6.05 The Inspector referred to the Council's Local Planning Guidance Note No. 2 'Space Around Dwellings' which sets out minimum separation distances between buildings. He noted that the distance between the windowless flank wall of the proposed two storey element relative to the rear elevation of 3 and 5 Church View would satisfy these guidelines.
- 6.06 The Inspector considered that the appellant is correct to argue that the proposal would comply with the Council's guidelines. However, the guidelines only relate to dwellings up to two storeys and are silent on separation distances between any building and adjoining private gardens. The guidelines state that proposals for taller buildings will be considered on their merits.
- 6.07 In considering the relationship between the proposal and the rear gardens the Inspector acknowledged that the Officer Report indicates that it is not an unusual situation to have views into private gardens in

urban areas. However, he considered that the enjoyment of the users of the rear gardens, particularly No 7 Church View, would be unacceptably compromised as a result of the proximity of these first and second floor windows. The overlooking would extend along virtually the whole length of the rear garden and the users of that garden and others beyond would have no privacy.

6.08 Since the proposed habitable rooms would be at first and second floor level the Inspector did not consider reasonable screening could be provided along the site boundary to safeguard the privacy of the users of the adjoining rear gardens. It would take many years for any planting to take effect and he did not consider this would provide an acceptable solution.

6.09 For the above reasons the Inspector concluded that that the proposal would have an unacceptable impact on the living conditions of the occupiers of nearby dwellings and the unacceptable layout would be contrary to UDP Policy GEN1.

6.10 Street Scene

The Inspector noted that the character of the street scene along Rectors Lane is dominated by the industrial units of various sizes to the north and west of the appeal site. He stated that with the exception of a large plant further along Rectors Lane these industrial units have a generally low profile. The proposed two storey element nearest to the two storey dwellings along Church View would be in keeping with the scale of the neighbouring dwellings. He did not consider the scale of the three storey element would cause unacceptable harm in the street scene.

6.11 Costs Application

The appellant sought a full award of costs as the appellant considered the Council acted unreasonably in refusing the planning application. As the Inspector found that the proposal would be unacceptable due to the overlooking of adjoining garden areas, in these circumstances he did not consider the Council behaved unreasonably in refusing the application. Whilst the Inspector found in favour of the appellant with regard to the impact on the street scene he was satisfied that the Council produced appropriate evidence to substantiate those grounds of refusal. He therefore concluded that an award of costs was not justified.

7.00 CONCLUSION

7.01 For the above reasons the Inspector concluded that although he found in favour of the appellant on the matter of the impact on the street scene issue, it does not outweigh the unacceptable harm to living conditions identified above and DISMISSED the appeal.

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