

FLINTSHIRE COUNTY COUNCIL

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

DATE: **12TH FEBRUARY 2014**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **APPEAL BY MR. R. JONES AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE SITING OF 18NO. STATIC HOLIDAY CARAVANS ON LAND AT PENNANT PARK GOLF CLUB, MERTYN DOWNING LANE, MOSTYN, HOLYWELL, FLINTSHIRE, CH8 9EP – ALLOWED.**

1.00 APPLICATION NUMBER

1.01 049812

2.00 APPLICANT

2.01 MR. R. JONES

3.00 SITE

3.01 LAND AT PENNANT PARK GOLF CLUB, MERTYN DOWNING LANE, MOSTYN, HOLYWELL, FLINTSHIRE, CH8 9EP

4.00 APPLICATION VALID DATE

4.01 31ST JULY 2012

5.00 PURPOSE OF REPORT

5.01 To inform Members of the appeal decision against a refusal of planning permission for the siting of 18 static holiday caravans on land at Pennant Park Golf Club, Mertyn Downing Lane, Mostyn, Holywell, Flintshire. The application was refused by Committee, contrary to officer recommendation, on 2nd November 2012.

5.02 The appeal was held by way of an Informal Hearing and was ALLOWED. In addition, an application for costs by the appellant was considered and ALLOWED in part by the Inspector.

6.00 REPORT

6.01 In considering the appeal, the Inspector identified the main issues in the case to be as follows:

1. The effect of the proposals upon the character and appearance of the locality;
2. The effect upon highway safety; and
3. Whether a precedent for other similar proposals would be established.

6.02 Impact upon Character and Appearance

In considering this issue, the Inspector also considered issues in respect of need and sustainability. He noted the open countryside location of the site but considered the criticism of the proposals as unwarranted development in the open countryside was unsubstantiated. He noted the position of the site as an 'island' surrounding by the golf course. He noted that the proposals were supported by development plan policies in respect of the case advanced in relation to the need for the development as a part of the continued economic stability of the golf course as a business. He considered the applicable plan policies encouraged such rural diversification.

6.03 In considering the Council's assertion that the site was not sustainably located in access terms, the Inspector gave weight to the consideration of the issue bearing in mind the established context of the site and surroundings. He concluded that the nature of golf, as a sport, was such that one would not reasonably expect a player to arrive via public service carrying a set of golf clubs. He noted the levels of membership, both current and previously, and the traffic generation associated with the golf clubhouse in itself. He concluded there would be no material increase in traffic as a consequence of the proposals. Furthermore, he considered that this aspect of sustainability should be balanced against the contribution the proposals would make to the local rural economy.

6.04 The Inspector considered the visual impact of the proposals in relation to the landscape character, having regard to the proposals, the cases advanced by both parties and his own visual assessment within the wider locality. He noted the site was not protected in any specific way other than by designation as open countryside. He concluded that the site was not readily visible in the landscape and considered that the proposed extensive and comprehensive landscaping scheme would serve to ensure that the proposals will suitably blend into the landscape.

6.05 Highway Safety

The Inspector firstly noted that there was no technical objection from the Local Highway Authority in view of the improvements to sightlines and provisions of passing places under a separate historical planning

permission. He took account of the survey information provided which indicated that the majority of golf club members utilise the 'improved' route to the site. He considered the representations made by third parties in relation to highway and access problems but considered there to be a lack of evidence to support these claims.

6.06 Precedent

The Inspector considered the case to which he was referred of *Collins Radio v SOS* [1975] on this issue. He noted that subsequent cases have served to clarify the generality of the precedent concern such that, in the absence of particular evidence to illustrate the concern, a general concern would not suffice.

6.07 He noted that in this instance, no such compelling evidence was forthcoming and, taking all other material matters into account, concluded there was no risk of this proposal creating a precedent.

7.00 CONCLUSION

7.01 The Inspector concluded that planning policies catered for tourism development in the open countryside. He considered that concerns that the proposals amounted to residential development in the open countryside could be controlled via the application of conditions and has imposed a condition which ties the proposals to the golf club as a venture such that should the golf course use cease, the caravans will have to be removed from the site.

7.02 Accordingly he concluded that the proposals were compliant with the applicable national and local planning policy context and therefor granted conditional permission for the proposal.

8.00 COSTS

8.01 The appellant sought a full award of costs with reference to Circular 23/93. In addition, it was contended by the appellant that the Council had failed to produce evidence to support its reasons for refusal and therefore, the appellant had been put to unreasonable and unnecessary expense in preparing evidence in response to the Council's reasons for refusal.

8.02 The Council advised of the relevant considerations in respect of applications for costs and highlighted the specific provisions set out in Paragraphs 7 – 11 of Annex 3 to Circular 23/93 – Awards of costs incurred in Planning and Other Proceedings. The Council advised of the fact that its decision was balanced and made having regard to the applicable development plan policies and other material considerations. Accordingly, it contended that its actions were not unreasonable.

8.04 **CONCLUSION**

The Inspector commented that irrespective of the outcome of an appeal, costs would only be awarded where a party was considered to have acted unreasonably such that the offended party has incurred unnecessary expense,

accepting the assertion of the Council that costs do not necessarily follow the event.

- 8.05 He considered the appellants claim that the Council had failed to provide sufficient evidence to form a respectable basis in relation to its reasons for refusal of planning permission.
- 8.06 The Inspector was of the view that the nature of the first reason for refusal was a subjective matter and as such, the stance taken by the Council was arguable. He concluded in respect of this particular reason that the Council was entitled to assess the landscape impacts in the manner it did and offered adequate reasoning for this stance. He therefore did not accept that the Council had acted unreasonably in respect of the first reason for refusal.
- 8.07 However, in respects of reasons 2 – 4 inclusive, the Inspector considered that the appellant was correct in his assertion. He considered that in respect of the highways based reason for refusal, there was an absence of evidence to substantiate the refusal and not that the Council's decision to ignore the advice of its Head of Highways and Transportation was unreasonable.
- 8.08 In respect of the reason advanced requiring the developer to prove a 'need' for the proposals, the Inspector noted that there was no policy basis for such an argument to be advanced but concluded nonetheless that the evidence provided was not adequate to make such an argument reasonable. He was of a similar view in relation to the arguments of 'precedent' advanced in respect of the final reason for refusal.
- 8.09 Taking these matters into account, the Inspector concluded that in relation to reasons for refusal 2, 3 and 4, the Council had acted unreasonably and had therefore put the appellant to unnecessary expenditure in preparing his case and therefore considered a PARTIAL AWARD OF COSTS was justified.

Contact Officer: David Glyn Jones
Telephone: 01352 703281
Email: david.glyn.jones@flintshire.gov.uk